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THE

COLONIES OF ENGLAND:

A PLAN

FOR

THE GOVERNMENT OF SOME PORTION

OF OUR

COLONIAL POSSESSIONS.

BY

JOHN ARTHUR ROEBUCK, M.P.

RRH.9.9

A land there lies
Now void; it fits thy people; thither bend
Thy course; there shalt thou find a lasting seat:
There to thy sons shall many Englands rise
And states be born of thee, whose dreadful might
Shall awe the world, and conquer nations bold.

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PREFACE.

In the truth of the main conclusions which the following work seeks to establish, I have myself a most sincere and earnest faith; but I cannot hope that, to others, they will appear equally correct; neither do I expect that my plan will be at once adopted, and followed. There are so many interests, fancied and real, opposed to every reform in our colonial management—there is so much ignorance (I must be pardoned the word) respecting everything connected with our Colonies, that no plan could be devised which would not, on the instant of its promulgation, be met with a storm of violent abuse. Some would be angry because a profitable abuse was pointed out for extirpation; some, because the means of a fancied benefit were to be removed; others, because a real advantage would erroneously be deemed in danger; and lastly, all the timid, all those who hate change because it is change, would be in arms against the plan. For all this opposition I am prepared, and shall be

delighted to experience it. What I most dread is, that my scheme may be assumed to be impossible, because it appears large, and be at once laid aside, with the favourite phrase of official condemnation—"impracticable;" and that being so put by, my proposals, and my reasons, may be together forgotten.

The effect of my proposed scheme would, I allow, be great; but the real objection to it, on the part of official people, will be, that it leaves them, and their office, very little to do. It would take from them the power of meddling—of which, for the most part, their functions now consist.

But I earnestly entreat my countrymen to draw a broad distinction between the interests of the Colonial Office and of England. The men of a particular office naturally endeavour to make that office important. In the case of the Colonial Office, the means of doing this have been unfortunately large, but mischievous. It was easy to find pretexts for interfering with the affairs of the Colonies; it was very difficult to make interference anything but an evil to the colony, and thereby to England. On this topic, however, I will not enlarge. My work is not written for the purpose of prosecuting a quarrel with the Colonial Office, but solely for the purpose of explaining a plan of proceeding which I sincerely believe would, if adopted, be greatly serviceable to the Colonies, and to

the mother country; and I mention the Colonial Office now simply in order to ask those who read the following pages to leave that office, and all that it contains, wholly out of consideration while they are discussing with me the subject of the Colonies.

Throughout my work I have carefully abstained from all discussion of any actually existing grievance or dispute in any colony. My conclusions rest on large results. The petty squabbles of petty people I have no desire to mix in. But wishing to deal with systems, I have sought for results in the history of colonization; from that history—from the teaching and experience of centuries, my deductions are made, and on that foundation, my proposals rest.

In the more general conclusions to which my examination of the past has led me, as I have already said, I have great confidence. This plan, however, while it is based on these general propositions, contains many specific details. In these my faith is by no means so great. They are, without doubt, in many instances, imperfect, and susceptible of great improvement. I hope, however, the candid reader will not permit himself "to stick in the incidents," but go at once to the principle, lay hold of, and abide by it. Let us make this step, and I have no fear of conquering all difficulty of detail.

The reader will see, that throughout this whole work my object is to lay a ground for legislation—that from the first to the last page I have an act of parliament in my mind; and he will be of opinion, if my reasoning produce upon his mind the effect that I desire, that without systematic preceding legislation, all attempts at systematic colonization will be useless, and doomed to fail. Before we can act according to a plan, we inust frame the plan. Such a plan to be framed must be written, put down, and recorded. Men will then see what the plan is. And what it is, it will remain, when once recorded in writing. If we decide that a particular course is the right one, the next object should be to make those adopt it who act under our rule. The only effective means of doing this is to give to our recorded plan the authority of law. In short, we must frame and pass an Act of Parliament.

In procedure, the teaching of experience is more needed than in any portion of the field of law—and in administrative procedure, no less than in judicial. I was therefore anxious to ascertain what had already been done by ourselves and others in the planting and governing of colonies; and as the reader will see, I have made constant use of the example afforded by the conduct of the Congress of the United States of America in this particular. In one instance, however, I propose to

depart very widely from the plan that Congress adopts; and I do so, because I believe our own more favourable position enables us to do once for all, what Congress does upon every occasion of establishing a new TERRITORY and STATE. Upon the formation of such new Territory, and the reception of a new State into the Union, a specific act of Congress has been passed; except, indeed, in the case of the Territories which were created under, and by virtue of the authority of the ordinance of 1784, which will be found quoted *in extenso* in the body of my work. That ordinance provided for the government of the territory belonging to the United States, north west of Ohio, and contemplated from the beginning the carving of many states out of that vast tract of country. I, looking in the same way upon *all* the wild lands in the several portions of our Colonial Empire to which my work relates, as one whole, propose, as Mr. Dane did, by his celebrated ordinance, to make one law for all. The separate interests which press upon Congress and obstruct its legislation, do not, after the same fashion, lie in our path; so we may, if we legislate at all, legislate safely, for the whole of the colonies and wild lands in the several possessions of which I speak.

One observation is necessary, in order to guard myself against the imputation of incorrectness in, the

statistics quoted which relate to the United States. Everything in her new Territories and States changes, and advances so rapidly, that the descriptions and the figures which are accurate this year are wholly incorrect for the next. I have done what I could to obtain the latest statistics, and where I am able, I state the year to which they belong. But my conclusions will, I believe, in no case be found affected by the sort of inaccuracy here spoken of.

ASHLEY ARNEWOOD,
April 23, 1849.

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THE whole that is marked with the shades of GREEN, constitutes the present United States of America. The *darkest* shade of Green shows the present extent of the Old Thirteen States who declared themselves independent in 1776. The *next* shade shows the extent of the States and Territories that have been added to the Union since the year 1783, when the United States were by us acknowledged to be independent. The *lightest* shade of Green shows the Wild Lands belonging to the United States not yet constituted Territories according to their system.

The RED shows the extent of the English possessions in North America.

On the GREEN, there are now dwelling nearly 25,000,000 of souls—excluding Indians. On the Red, there are less than 2,000,000 of souls, also excluding the Indian Tribes.

THE

COLONIES OF ENGLAND.

CHAPTER I.

OBJECT OF THE WORK — A COLONY, WHAT?—ENGLISH COLONIES CLASSED—WHAT CLASSES TREATED OF IN THIS WORK — WHAT OBJECTS SOUGHT IN FOUNDING AND MAINTAINING COLONIES — SURPLUS POPULATION CARRIED AWAY — TRADE — HOW PROPOSED BENEFITS ARE TO BE OBTAINED—EXAMPLES—OF TWO SYSTEMS OF COLONIZATION.

THE object of the present work is to bring into something like a system the principles which ought to prevail in the government of some portion of our colonies. Hitherto, those of our possessions termed colonies have not been governed according to any settled rule or plan—caprice and chance have decided generally everything connected with them; and if success have in any case attended the attempts of the English people to establish colonies, that success has been obtained in spite of the mischievous intermeddling of the English government, not in consequence of its wise and provident assistance. In the following pages an attempt will be made to discover, if possible, a means of preventing the continuance of this evil system—if system that can be called which has no

rule or order. I shall endeavour to ascertain the mode in which the metropolitan authority can be best employed in the planting and government of those communities which we term colonies, so that they may be rendered prosperous and happy, in so far as their prosperity and happiness are dependent on the government to which they are subject—and while thus flourishing within themselves, may become useful to the mother country from which they have sprung.

A Colony—what?

There are many dependencies under the control of our Colonial Office which are not colonies in the present English acceptation of that term. Ceylon, the Ionian Islands, Malta, are not considered colonies. The idea of settlement is not connected with them. Their lands are already occupied. They have for their limits a sufficient, a dense population, which population are not emigrants from another land, but belong to the country in which they live, and look to no mother country, no *metropolis* for which they feel affection, and to which they are willing to render obedience.

There are two leading ideas which enter into our conception of a colony—the one is, that the territory itself is, or within recent memory has been, for the most part, wild and without inhabitants; and the other, that the inhabitants for which it is eventually destined, or which it has in part already received, are to go to it from our own country, or have gone from us or from some other *mother* country. The relation to, and supervision by, the mother country is the great distinctive mark of a

colony, and is that which will be kept in view throughout the following pages. The present work, in fact, is an attempt to turn that relation to use for both the parties concerned.

If we advert to Ceylon, and inquire why it is that we do not consider it a colony, we shall find that there is no belief on our parts, or on that of any one else, that there are wild or unoccupied lands within the island, which are fit for, or likely to receive, any body of English settlers who will go there with the intention of founding a new community in that distant country, transmitting the language, the habits, and the manners of England to generations yet unborn, who will there find a country and a home, but who will always look back to England as their origin and parent. The tribes who now occupy Ceylon are so numerous, that very little land is left for a new comer; and even if there were large unsettled territories which had no owners, yet the climate almost precludes the possibility of planting there an English population.

If on the other side of the globe we look to the United States, we shall find there all the elements necessary for the complex notion of a colony except one. The relation to the mother country no longer exists. They have ceased to be colonies.

Taking, then, these conditions, such as here described, we are to inquire in what way, under what system, can we render useful both to the mother country and her colonies that tie and relationship—that peculiar dominion which is understood when we speak of OUR COLONIES and our COLONIAL EMPIRE.

The colonial dominion of England must, for my present purpose, be viewed under two separate aspects. We have colonial possessions lying in various parts of the globe, forming distinct systems, or countries. Each of these systems must be considered by itself, and with regard to the interests and circumstances peculiar to each. But there are certain matters which are common to all these separate systems which can be well discussed together, and general rules established concerning these common interests, before we come to the specific considerations which belong to the distinct divisions of our colonial empire.

What is here meant by distinct systems, may be best explained by making at once the division intended to be adopted when the more specific detail is given:—

1. Our territories in North America, all lying north of the United States, including Newfoundland, form one system.
2. Australasia forms another separate system.

   [By Australasia I mean the whole of the vast island sometimes called New Holland, and also the island of Van Diemen's Land, together with all the islands which cluster round the coast, both of New Holland and Van Diemen's Land.]
3. South Africa forms also one.

   [By South Africa, I mean all that we do, all that we may, acquire at the southern end of the continent of Africa. We have already an immense and fertile territory there, which promises to increase.]

4. New Zealand.
5. The islands commonly called the West Indies, together with Guiana, and our territories on the main in that part of South America.
6. Borneo, and our possessions in the Indian Archipelago.

My present work relates exclusively to the four first mentioned of these systems.

The principles which I shall endeavour here to establish are applicable, in my opinion, to all these territories.

The West Indies, and the other territories which I include with them, are, in many essential circumstances, different from these, and require for their proper management a different system or arrangement of the powers of government. To frame such an arrangement for them would not, I fancy, be difficult. But at present, I lay them out of consideration; not because they are unimportant possessions, but simply because I have enough before me, in the task which I have undertaken. The peculiar modification and complication of interests existing in the West Indies would require a volume to themselves, if they are to be satisfactorily provided for.

So, also, I put aside, and for similar reasons, Borneo, and the circumjacent territories possessed by us. Our knowledge of those countries is besides so scant, that we are yet ignorant of the uses to which they can be turned. I intend, therefore, not to discuss any question relating to them, or the interests connected with them.

The subject matter, then, of the present work is the plan of government which ought to be adopted for the

four separate territories which I have above described and named; that is to say—

1. British North America.
2. Australasia.
3. South Africa, and
4. New Zealand.

These territories, though they lie in very distant parts of the globe, the one from the other, are in many important particulars alike. They possess, all of them, similar attributes and capabilities, which render them to England valuable, and the principles according to which they ought to be governed are alike. While they thus in their distinctive characteristics resemble one another, they are in certain other things unlike each other. The mode, then, of treating the question of their management suggests itself naturally:—

1. The principles which are common to all of them may be treated of, once for all—and this explanation and discussion will serve as a proper preliminary to the,
2. Second exposition, which will relate to those circumstances which are peculiar to each.

[To prevent mistake, let me observe now, that when I use the word colony, without any further explanation, I mean the colonies comprehended in the four above-named territories—or colonies exactly like them in all those essential particulars which have led me to class under one head the different possessions which form the subject matter of the present work.]

The statements which will be given in the first of these two proposed expositions ought, in my opinion, to be embodied in an Act of Parliament. They will be found to constitute a general plan of government for the class of colonies of which I treat, and require to be put into an authoritative shape in order to produce the effect which I anticipate. Should the opportunity be afforded to me, this Act I purpose framing, so that it may be submitted to the scrutiny of Parliament.

Of the second and more specific details and exposition, I shall not be able to give more than relate to British North America. Time must determine whether I can fill up the sketch here made.

Before we endeavour to frame a polity, there ought to be in our minds a clear conception of the ends we seek to attain: and this preliminary question, on the present occasion, is—What are the purposes for which we plant and maintain colonies?—Why do we seek, why do we keep, at a great expense of trouble, of wealth, and of blood, our colonial empire?

This question is the more important on the present occasion, because there are philosophers and statesmen, of no mean authority, who consider our colonial possessions an unnecessary burthen. They believe them to be costly and mischievous additions to our dominions—maintained partly from pride, and partly from a false notion of gain resulting from them. They assert, and truly, that hitherto our colonies have been to us a source of constant quarrel with other nations, and of unprofitable expense to ourselves; and they say, that it would be better for us to be without colonies, than to keep

them, as we have done hitherto, to be a perpetual cause of strife and waste. But having arrived at this accurate conclusion, the statesmen and philosophers to whom I allude draw one other inference, which appears to me far from correct—and this inference is, that colonies must necessarily be thus mischievous and costly. I perceive that this conclusion is favoured by political economists generally, (not by all indeed, for there are some remarkable exceptions,) and I also perceive that the members of parliament who are classed as the Manchester and Yorkshire party have a tendency towards this belief, though they have not yet very definitely stated their views on this interesting subject, and I suspect have hardly yet made up their minds upon it. I am therefore the more anxious to state clearly, though briefly, the benefit which I believe may be derived from colonies if they be properly administered—and the mode in which that benefit may be obtained. The people of this country have never acquiesced in the opinion that our colonies are useless; and they look with disfavour upon any scheme of policy which contemplates the separation of the mother country from the colonies. For this opinion, the people have been seldom able to render an adequate reason; nor have they been accustomed to describe with accuracy the way in which the colonies prove useful to us; still they believe them beneficial, and so believing, they regard with suspicion those who roundly propose "to cut the connexion." On the other hand, the economical statesmen clearly perceived that the cry of "Ships, colonies, and commerce," was a monopoly anti-free-trade cry, and they therefore regard

with jealousy every scheme for the preservation and management of our colonies. Now to me it appears possible to conciliate the popular feeling, and economical views—that colonies may be created and maintained without waste, and that a lasting benefit may be derived from their existence—both for England and the new communities she establishes; but that this good can only be accomplished by means of free-trade and self-government.

The mother country may hope to derive advantage—1st, from *colonizing*—and, 2nd, from her *colonies*. The one advantage is immediate, the other prospective.

The first advantage is to be derived from sending off a surplus or inconvenient population.

The population upon some Irish estates, where more people are asserted to be than are needed for the proper cultivation of the land, may be deemed a surplus population.

I have, however, great doubts as to this excess. The area of Ireland, with adequate capital, could profitably employ a very large population. Hitherto this capital has not been found. A miserable pittance of capital has been used by the peasant farmer, his land has been not half tilled, and the produce, now that the potato has failed, is inadequate to support himself and his family. For himself and his family, emigration to another land may be a happy change, and perhaps the absence of a turbulent and ignorant peasant farmer may make room for a peaceful and industrious labourer, who, receiving weekly wages, will make the land, under the guidance of an instructed capitalist, far more productive than it

now is, and able eventually to support a more numerous population than that of which Irish proprietors now complain. The unfortunate emigrant may also, by the change, become a new man. His new country may, and probably will, create in him new habits; hope will make him cheerful and industrious; a chance of success will make him self-dependent, and convert a discontented mendicant into a worthy, self-relying, and self-maintaining labourer.

The inconvenient population is, however, of two sorts. The one has been here described and illustrated by the Irish peasant—that which is deemed a surplus, but which is really a troublesome dweller on the land. The other class of *inconvenients* are the *criminals*. With these last the present work has no concern. The principles which should direct the conduct of government towards a convict settlement are entirely different from those which ought to preside over our policy and acts in colonization.

I mention the subject of criminals and transportation on the present occasion, only for the purpose of at once removing it out of my path, and separating it entirely from my system of colonial policy.*

After the mother country has obtained what benefit

* English statesmen and writers, when discussing the subject of colonies, almost exclusively consider them with reference to English, or rather, metropolitan interests. The Irish famine, for example, makes the population of Ireland a burthen, and straightway our statesmen endeavour to discern what can be done *with* this troublesome, because starving race. A colony, with politicians of this order, is a favourite subject of contemplation and discourse. They look at it as an admirable mode of *getting rid* of the people—and

flows from removing some portion of her population, she may look forward to the more distant but far greater advantages which will come from the existence of a thriving and friendly community, dwelling in one of her outlying territories. Having, by the fact of COLONIZING, relieved herself from the inconvenient pressure of a superabundant population, if such have existed, she now reaps from the COLONY all the good which a growing market can supply. If the mother country, while she thus extends her dominion, thus carries her name, language, institutions, and manners to distant lands, and increases the number of her people and the amount of her wealth—if, while she does this, she retains the affection of these outlying portions of her people, and makes them consider themselves integral parts of her empire, she may, by means of her colonies, acquire a power and influence which her own narrow territory might not permit her to attain.

According to the present feelings and opinions of men, no direct benefit, by way of tribute or payment of any sort, can be derived by England from her colonies. The ever-memorable struggle with the present United States has happily precluded the possibility of our attempting to convert any portion of our people into

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the difficulty. When they bring the subject of colonies before parliament, you always find them endeavouring to win attention by a long preamble detailing the miseries of the existing surplus populations. (See the speech on Colonies by the late Mr. Charles Buller, and the many speeches about what is called systematic colonization, for example.) But this mode of looking at the subject is fraught with injustice: it produces plans unfair towards the colonies, and, in the end, injurious to England.

tributaries to our dominion. The difficulty of creating a new settlement is of itself sufficiently great, without the addition of a metropolitan tax. To raise up a new community in the wilderness—to create civilized homes, and establish all the arts and all the necessities of civilized life—to supply the one and cherish the others —this is indeed a task, in the performance of which the stoutest heart may quail, will often sink, and be ready to despair. Painful regrets beset him who applies himself to this trying business. HOME, with all the many sentiments which that word inspires, (and which none can fully appreciate but the wanderer who has renounced home, the home of his youth, for ever,) comes in the hours of weariness and disappointed hope, and seems in the distance, as home is to the settler, a land of fairy enjoyment. The courtesies and amenities of the life he has quitted rise up to contrast themselves in his mind with the coarse and harsh realities which are all around him. Sickness comes, and sorrow comes, and want too—and for what, he asks himself, "am I thus a wanderer and an outcast?" The effect of such thoughts and of all the real difficulties and troubles which beset the early settler, is great upon the firmest men; we may easily conceive what their influence is likely to be upon women. But women must share in all the trials, and aid in resisting all the miseries, which the new life of of an emigrant brings. From people who have to combat all these difficulties and resist all the influences which induce despondency and despair, it is useless to expect any tribute to the country from which they have emigrated, and in which they could not live. But still

in many ways it may be useful to the mother country to have her people employing their energies and their capital in the formation of new communities. If they could be as profitably employed at home, we may be assured that the misery which ever attends an emigrant would not be braved by him. The capabilities which the new country possesses enable him, by industry, to maintain himself, to increase his substance, and to provide for his family. The present great difficulty once conquered, his future is more assured than it would be at home, and his children grow up with feelings of attachment to the adopted home of their parents, which is, probably, their natal place, and is *their* home, in short. But in countries destined to be great, to grow into powerful and increasing communities, there will never be found any means of acquiring sudden wealth and extravagant fortunes. There, where steady labour is needed to live and to thrive, will be found the habits which are needed to make a great people. The gold that lies in the soil of California, or is found in the mines of Potosi, may for the moment attract cupidity by holding out the promise of vast and sudden wealth to the adventurers who seek those lands; but in these auriferous regions, useful colonies, the solid foundations of great nations, are not to be created, unless the soil shall cease to afford gold, and the mines come to yield only a scant return to labour and to capital. In the gradual progress which is won by steady labour, the mother country which is wise will see her most promising return for the protection she has afforded; for the assistance she has given to her adventurous sons, who

have dared the difficulties of creating a new community in a wild, uncultivated region. As the new community grows, the wants of the inhabitants increase also, and with them the desire and the power to purchase the commodities which the metropolis can produce more easily and more cheaply than the colony for itself. Thus a new market is created for the produce of the mother country. Trade between people so intimately related is sure to arise, and needs no coercive laws to force it into being. With unfettered trade there will arise a community of interests and of feeling. Instead of hostile and envious rivals, we shall have made willing and friendly customers, into whose ports we can enter without restriction and untaxed; who will not be desirous of placing upon our productions the check of a hostile tariff, or eager to refuse to us the benefits of an untrammelled commerce. If in a spirit of true liberality we regulate our whole conduct towards the new nations which our people from time to time create, they in their turn will deal generously and in a spirit of friendship with us. But if we permit the narrow views of a protective policy to be the guides of our system, and by restrictive laws thwart and check the energy and ingenuity of the growing communities while subject to our sway; if we force upon them the monopoly implied and really expressed in the shibboleth of "ships, colonies, and commerce," we prepare our colonies for a race of rivalry and hostility when they are able to cast off our dominion. Unfortunately this course we have hitherto pursued, and we see the fruits in the conduct of the United States. We taught them, while colonies, to believe restriction wise

policy, and we proved to them that we were selfish enough to insist upon a cramped and restricted trade, though it was plainly mischievous to the colonies, and though it was at every stage of their history strenuously resisted by them. They naturally believed what we taught, and imitated the example which we had so pertinaciously set. The doom, however, of this protective policy is sealed. We are bound, if wise and just, to begin at once, and give the world a proof of our sincerity, by establishing with all our colonies, in every part of the globe, a perfectly free trade; by allowing to the whole world free access to our colonial ports. We thus shall lay the sure foundations of a lasting intercourse by means of a thriving, because unrestricted commerce.

The object of all the succeeding inquiries of this work will be to ascertain in what way the mother country can best use her powers, in order to create thriving communities of her own people in the territories which she possesses in various parts of the globe, but which are now in a state of nature—the wild home of a few wild tribes—how she can most easily convert a howling wilderness into the secure home of a busy, thriving, happy people.

That she can do this without expense I believe, and shall, I think, be able to prove; and to that proof I now apply myself.

The English, with much self-complacency, call themselves a practical people; and so calling themselves, they are accustomed to search for precedents, as a means to regulate their conduct. This looking for

precedents, and trusting to authority, means, in so far as it is a wise mode of conduct, simply inquiring whether mankind have already had the teaching of experience upon the matter in hand, and whether there are records of this experience, from which rules of conduct for the future may be deduced. Knowing this habit of my countrymen, I naturally, for my own teaching, as well as the persuading of others, have inquired, what examples history offers on the subject of colonization? To ancient history, the philosopher and the scholar may refer with advantage and with pleasure; but the practical politician had better confine himself for the most part to modern experience, and even, if possible, to English experience. Fortunately, there are ample records for his purpose—and records of a most special and useful character. We have the means, if we so wish, of comparing the modes adopted by different nations in similar regions, and in similar countries. As for example, the mode pursued by France in her vast North-American territories, with that adopted by Englishmen in the same regions, though in a more restricted field. But we are able to compare the different modes adopted by the same people in the same regions, or by the same people in different regions. As, for example, Englishmen in Massachusetts, and in Maryland and Carolina, and Englishmen in Sydney. The experience and the records of it are so vast and multifarious, that a selection becomes absolutely necessary; and this selection I purpose making, in order to lay before the reader an authority for the conclusions to which I have arrived, and to which I ask his assent.

Of the examples, then, which modern history affords, I have selected two, both of which have been distinguished eventually, and the first, after various fortunes, with success; and in this first example, there will be seen almost every possible scheme attempted, but success attending only one condition of things, and attending just in proportion as that condition was adopted or departed from.

The conditions upon which success thus depended, were the existence, first of self-government and self-maintenance, and next of free trade. Where there were complete self-government, and an entirely unrestricted trade, there success, even with an adverse soil and climate, was most rapid and extensive; where there was no self-government, there was no success; where there was self-government, but so far checked as a restricted trade implied, there was only a partial, and slowly-advancing improvement. The authority in favour of this statement is so extensive, as to create difficulty only by its profusion. I shall content myself by advancing some of the more remarkable portions of this evidence.

The two examples of which I speak, and which I intend now to instance, are as follow:—

1st. That of England, when she established in America the thirteen colonies, which afterwards became the celebrated United States of America. They were—1. Virginia; 2. Maryland; 3. Massachusetts Bay; 4. Connecticut; 5. Rhode Island; 6. New Hampshire; 7. New York; 8. New Jersey; 9. Pennsylvania; 10. De

laware; 11. North Carolina; 12. South Carolina; and, 13. Georgia.

These were all English colonies, though some of them, as New York and New Jersey, were begun by,* but taken from, the Dutch. Emigrants came to them from various parts of Europe; but still their institutions are English; and, with very slight exceptions, their people all eventually spoke the English language. We may say, with accuracy, that this is an English example.

This great scheme of colonization began in the year 1606 with the foundation of Virginia. It was terminated in 1776; when the thirteen colonies (the last of which, Georgia, was founded in 1732) declared themselves independent, and thus put an end to their colonial existence. Between these two years of 1606 and 1776, thirteen communities were called into existence; and they contained, at the last mentioned period, a population of about three millions of souls.

2nd. The second example is that of the United States of America, when, being a sovereign people, they established many new states, and added them to the great federal union. All these new communities, which thus became members of the republic, were originally colonies, planted and maintained by the United States.

This second instance has seldom been considered in the light in which I now place it. The new states of the union have not hitherto been deemed colonies; yet such they truly were; and the system according to which

* Sweden, also, had a share in this attempt.

they have all been planted and governed is the only regular and predetermined plan for such a purpose which any government has laid down for its guidance; and as might have been expected, the plan being a wise one, the result is the most successful example of colonization ever yet afforded by mankind.

CHAPTER II.

ENGLISH COLONIZATION IN AMERICA — VIRGINIA, 1606— MARYLAND, 1632 — NEW ENGLAND, 1620 — MASSACHUSETTS—CONNECTICUT—RHODE ISLAND—CAROLINA, 1663—PENNSYLVANIA, 1681—GEORGIA, 1732.

THE first of these thirteen American colonies, Virginia, was begun in the year 1606; the last, Georgia, in the year 1732. From the beginning to the end of this period nothing like a system—a regular plan with predetermined rules of action, can be found in the conduct of the government. Some of the colonies were planted, in the hope of gain, by associations of rich and powerful proprietors in England; such was, for example, Virginia: some were established by men who fled from religious persecution to the wilds of America, intending there to found an empire in which true religion should be the ruler, and the Bible their code of laws. The pilgrims who laid the first foundations of New England were the most remarkable of this class of settlers; and New England still exists and flourishes, a monument to their many great qualities, and some mistaken views.

The early settlements of Virginia were formed in consequence, and by means of powers granted in charters from the crown. The object was immediate gain to the projectors; the means by which this gain was sought to be botained were the mines of gold and silver, which in

those days every adventurer fancied were to be found throughout all the regions of America. But there was in that age something of grandeur and magnificence pervading men's minds, and ennobling even their meaner thoughts, and feelings. Their conceptions were large, though their aims were sordid. They intended and expected to found empires even while seeking for gold. Their cupidity was thus hidden by the brave garb in which it was clothed. By the charter, under which the first successful settlement was established in Virginia, "a belt of twelve degrees on the American coast, embracing the soil from Cape Fear to Halifax, excepting, perhaps, the little spot in Acadia, then actually possessed by the French, was set apart to be colonized by two rival companies. Of these, the first was composed of noblemen, gentlemen, and merchants in and about London; the second of knights, gentlemen, and merchants in the west.* The London adventurers, who alone succeeded, had an exclusive right to occupy the regions from thirty-four to thirty-eight degrees of north latitude —that is, from Cape Fear to the southern limit of Maryland. The western men had equally an exclusive right to plant between forty-one and forty-five degrees. The intermediate district, from thirty-eight to forty-one degrees, was open to the competition of both companies. Yet collision was not possible; for each was to possess the soil extending fifty miles north and south of its first

* Virginia was planted by the London Company; New England was, in part, the fruit of the powers granted to the Western, or Plymouth, Association. See below, page 49.

settlement, so that neither could plant within one hundred miles of a colony of its rival.* The conditions of tenure were homage and rent; the rent was no more than one-fifth of the net produce of gold and silver, and one-fifteenth of copper. The right of coining money was conceded, perhaps, to facilitate commerce with the natives, who, it was hoped, would receive Christianity and the arts of civilized life. The superintendence of the whole colonial system was confided to a council in England; the local administration of each colony was intrusted to a council residing within its limits. The members of the superior council in England were appointed exclusively by the king, and the tenure of their office was his good pleasure. Over the colonial councils the king likewise preserved a control, for the leaders of them were from time to time to be ordained, made, and removed according to royal instructions. Supreme legislative authority over the colonies, extending alike to their general condition and the most minute regulations, was likewise expressly reserved to the monarch. A hope was also cherished of an ultimate revenue to be derived

* Yet the *western* limits of these colonies were never accurately defined. The *terms* permitted the colonists to take the whole breadth of the continent, from the Atlantic to the Pacific, between the degrees mentioned. So much for the precision of the grant. "Several of the old or original states claimed large tracts of wild lands in the west and northwest parts of the country, before the war of the Revolution, on the supposition that their respective territories extended to the farthest lakes, and the Mississippi, if not to the Pacific ocean, for their patents were limited only by the Western ocean."—History of the Federal Government, p. 42, by A. Bradford, LL.D.

from Virginia. A duty to be levied on vessels trading to its harbours was, for one and twenty years, to be wholly employed for the benefit of the plantation, at the end of that time, was to be taken for the king. To the emigrants it was promised that they and their children should continue to be Englishmen—a concession which secured them rights on returning to England, but offered no barrier against colonial injustice."*

The historian, Mr. Bancroft, himself an American—one who has carefully considered the whole of the early history of his country, and the effect upon its fortunes produced by the several enactments, legislative and administrative, made in England, thus remarks upon this charter, and the nature of its provisions:—

"Thus the first written charter of a permanent American colony, which was to be the chosen abode of liberty, gave to a mercantile corporation nothing but a desert territory, with the right of peopling and defending it, and reserved to the monarch absolute legislative authority, the control of all appointments, and a hope of ultimate revenue.† To the emigrants themselves, it conceded not one elective franchise, not one of the rights of self-government. They were subjected to the ordinances of a commercial corporation, of which they could not be members; to the dominion of a domestic council, in appointing which they had no voice; to the control of a superior council in England which had no sympathy

* Bancroft, History of America, vol. i. p. 121-3.

† The worst sort of restrictive laws respecting navigation was also in the charter.

with their rights; and, finally, to the arbitrary legislation of the sovereign. Yet, bad as was this system, the reservation of power to the king—a result of his vanity rather than of his ambition—had at least the advantage of mitigating the action of a commercial corporation. The check would have been complete, had the powers of appointment and legislation been given to the people of Virginia."*

The King, besides this charter, in the plenitude of his royal benevolence and wisdom, added a code of laws framed (it is said) by himself. Some of the provisions which adorned this precious production, are thus described by Mr. Bancroft:—

"The superior council in England was permitted to name the colonial council, which was constituted a pure aristocracy, entirely independent of the emigrants whom they were to govern; having power to elect or remove its president, to remove any of its members, and to supply its own vacancies. Not an element of popular liberty was introduced into the form of government. Religion was especially enjoined to be established according to the doctrine and rites of the Church of England: and no emigrant might withdraw his allegiance from King James,† or avow dissent from the royal creed. Lands were to descend according to the common law. Not only murder, manslaughter, and adultery, but dangerous tumults and seditions were punishable by death;

* Bancroft, History of America, vol. i. p. 122.

† This provision was unnecessary; the rule of our common law being the same. Nemo potest exuere patriam.

so that the security of life depended on the discretion of the magistrate, restricted only by the necessity of a trial by jury. All civil causes requiring corporal punishment, fine, or imprisonment * might be summarily determined by the president and council, who also possessed full legislative authority in cases not affecting life or limb. Kindness to the savages was enjoined, with the use of all proper means for their conversion. It was further and most unwisely, though probably at the request of the corporation, ordered, that the industry and commerce of the respective colonies should for five years at least, be conducted in a joint stock. The King also reserved for himself the right of future legislation."†

Severe misfortunes attended the infant colony; the practical proceedings of its founders being no wiser than their scheme of its political institutions. Visions of glory and of gain—sanguine hopes of great wealth and honour attained without labour, and at once, led the daring, the reckless, and the idle—broken-down spendthrifts, and gay gallants of the court, to form part of the company of emigrants by whom the new community was to be established. The celebrated Captain John Smith, the real practical founder and saviour of this the first settlement, knew well what was the class of man needed for the work—and clearly understood the benefit that would follow *well-selected emigrants*—"When you send again," said Smith, in a letter written to his supe-

* This is a curious description of *civil* causes; punishment being that thing which is the essence of *criminal*, as distinct from civil jurisdiction.

† Bancroft, History of America, vol. i. p. 123.

riors at home, "I entreat you rather send but thirty carpenters, husbandmen, gardeners, fishermen, blacksmiths, masons, and diggers up of trees' roots, well provided, than a thousand of such as we have."* He was averse to all schemes for the attainment of sudden wealth by gold finding and mining—"Nothing," said he, "is to be expected from Virginia but by labour."

The misfortunes of the first attempts stimulated the nation to yet greater efforts. Raleigh, who had originally conceived the scheme, and laboured with great patience and energy in the cause which had excited his sanguine and enthusiastic spirit, was now a ruined man and a prisoner. But Cecil, his enemy, adopted his plans, and brought all his own influence in aid of the company. The company itself was enlarged, powerful nobles and rich citizens were added to the list of its shareholders, and as they supposed that the previous failure had resulted from defective institutions, they desired to have supreme power in their own hands. Their wishes were gratified—and the power of supervision and legislation, which the King had reserved to himself, he now gave to the corporation. This alteration rendered the political constitution (if I may use the term) under which the scheme of colonizing was to be attempted, as inefficient and mischievous as possible. The supreme power was in the hands of a body of persons in England, whose great object was to attain wealth and influence in England, by means of the power which, through others, they were to exercise in America. These others—viz., their

* Bancroft, vol. i. p. 135.

servants and officers, appointed by them to rule over the emigrants—were responsible in name to the supreme council in London; but exercised, in reality, uncontrolled authority over the emigrants. These last, through whose labour and skill the colony was to be actually founded, were left wholly out of consideration. They had no means of checking the governors and other officers of the company, but were obliged to submit in silence to every species of oppression and cruelty, and injury, which cupidity, tyranny, and ignorance could bring upon an unhappy people. The necessary result was dissensions, open quarrels, violence, and failure.

After many valuable lives had been lost, many terrible hardships undergone by the survivors, and constant and large additions had been made to the numbers of the colonists, by direct importation from England into the colony of men and means, the first step was taken in the right direction—private property was established. "But the greatest change in the condition of the colonists resulted from the incipient establishment of private property. To each man a few acres of ground were assigned for his orchard and his garden, and to plant at his pleasure and for his own use. So long as industry had been without its special reward, reluctant labour, wasteful of time, had been followed by want. Henceforward the sanctity of private property was recognised as the surest guarantee of order and abundance."*

Another change was made, and, in a certain sense, for the better, in what I have called the political constitu-

* Bancroft, History of America, vol. i. p. 145.

tion of the colonizing body. The supreme council in England was made responsible to the majority of the corporation. Vacancies in the council were now to be filled by those who obtained the majority of votes given by members of the corporation, and four several courts of the body of proprietors were directed to be held during the year, in order to elect officers and make laws. In fact, the company—that is, the colonizing body,—had now a democratic in place of an aristocratic government. This was an improvement, but the colonists themselves seemed as far from having a voice in their own concerns as ever. These courts of the company were afterwards employed by the great liberal party of those days as a means of opposition to the arbitrary measures of the king; the debates which took place in these assemblies being made subsidiary to the debates in parliament. But whatever influence these courts might have in aiding the establishment of English liberty, they lent very little assistance, did very little if any good, to the colony which they attempted to govern. That colony, though it might seem firmly established, and since private property had been re-instituted, appeared in some measure to thrive, was still, in fact, endowed with but very little vitality, and threatened every hour to droop and fade away from the land. "In May, 1614, a petition for aid was presented to the House of Commons, and was received with unusual solemnity. It was supported by Lord Delaware, whose affection for Virginia ceased only with his life. "All it requires," said he, "is but a few honest labourers burdened with children," and he moved for a committee to consider of relief.

But disputes with the monarch led to a separation of the Commons, and it was not to tottering or privileged companies, to parliaments or to kings, that the new State was to owe its prosperity. Private industry, directed to the culture of a valuable staple, was more productive than the patronage of England, and tobacco enriched Virginia."*

The *manner* of this statement may not be agreeable to the taste of Englishmen, and probably would not have been adopted by Mr. Bancroft were he an Englishman, even though he were as deeply versed as he now is in all that appertains to the early history of his country. He would nevertheless have expressed the same opinions, and would have insisted as urgently as at present on the importance of the conclusion to which he had been forced by a study of this history; and now, when we see attempts making to revive that old form of company, by which our forefathers vainly endeavoured in ancient days to found colonies; when we hear the final success of those colonies attributed to this mode of directing the enterprise, and skill, and energy of our people, when laying the foundations of what are now mighty states, it behoves all who really know how false are these statements, and how mischievous these companies were in fact, how seriously they impeded the progress of adventure, and retarded the growth of the colonial communities, to lay this experience with earnestness before the world;—not to be nice as to phrase while insisting upon the value of the knowledge which

* Bancroft.

can be obtained from our former colonial history,—and at all proper times fearlessly to expose the grave errors which are daily propagated on this important subject by interested projectors, who pretend to be philosophic discoverers of great moral truths in political science, instead of assuming the more modest character of historians, in which, if they were honest, they might bring to light the valuable experience which the past has garnered up for our use.

In the history of our American colonies, we find indeed ample experience of every form of mischievous schemes for the planting of colonies; and more especially does that history teem with evidence to prove, that evils always followed when the office of planting a new settlement was intrusted to a chartered company; that so long as such connexion existed between the company and the colony, the evil continued, and success was impossible; and that the colony never fairly flourished, till that connexion was completely severed. The company has always sat like an incubus on the new community. It has been a mill-stone round its neck—a drag upon its wheels—a weight upon its springs—in short, every example and illustration of evil retardation and mischievous restraint may be employed with truth, when speaking of the influence of a privileged company upon the fortunes of a colonial settlement.

Virginia affords, indeed, a remarkable illustration, at every step of her history, of the mischiefs resulting from a distant control, and of the increase of the mischiefs when the distant control was in the hands of a mercantile corporation. I know that I may

be met by the example of the East India Company, and asked if I apply this reasoning to their case. My answer is two-fold—first, I certainly do so apply the reasoning, and can, out of the story of British India, fearfully prove its accuracy; but, secondly, the East India Company have never been *colonizers*. They were first merchants, then conquerors and rulers. They had a country densely peopled to rule over, and that dense population were in a state of civilization very unlike and very inferior to that of England. But what I am now speaking of is a *colonizing* company, and of subject *colonists* having the habits, feelings, intelligence, and capacity of the people of England; and my assertion is, that a mercantile company is wholly unfit to exercise legislative and administrative functions over such a body of colonists; and that, in the first instance, such a company would be a mischievous instrument if employed to *plant* a colony; and in the next, if employed as an instrument to *rule* over it, when with difficulty and danger it has struggled into life, the evil will be increased ten-fold; and these assertions, I assert, are remarkably borne out, not only by the history of Virginia, but by the history of every one of the proprietary governments established in America. Some of those governments were far superior to others; but the worst of all were those which took the form of chartered companies of mercantile adventurers ruling the colony from England.* I now proceed, however, with my historical illustrations.

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* In a subsequent part of this work I shall endeavour to explain in what way a company may be of use in the work of colonizing.

For a time, martial law was established in Virginia. This system of coercion did not improve the condition of the colonists. Then it was thought that probably mild measures might be more successful, and Mr. George Yeardley, who had previously been deputy-governor, was appointed governor—a mild and benevolent person, though not distinguished by any great ability. Under his rule, great political changes occurred. In the early days of the settlement many mistakes were naturally made in the various modes of cultivation adopted. Vineyards were planted. The colonists attempted to make soap, and glass, and tar, and ashes; but were unable to compete with the people in the north of Europe in the production of these things. *The sect of gold-finders died out about* 1615. At length, tobacco was discovered, and the fortunes of Virginia improved; but with improvement came a desire on the part of the colonists for the power of managing their own concerns. The martial law did not suit the convenience of Englishmen, and successful Englishmen were not likely to submit to such a rule without a struggle. With Yeardley, under the direction of the London Company, a council was associated, and shared his authority; and he, without any direction, but of his own motion, conferred on the colonists a share in the government. This circumstance is memorable, as the first step taken on the American continent towards the establishment of a popular rule—the rule that, over every part of the vast territories which the English race has occupied on that quarter of the earth, is now firmly established. The experiment which, at the present moment, those young

communities are making in the science and art of government is of the highest interest to the whole of mankind. *We* are, indeed, living in times when all appears prosperous with respect to it. In the early days, however, of which we are now speaking, there were doubt, and resistance, and fear. The beginnings of so extraordinary a trial and result cannot fail to interest every reflecting mind.

In June, 1619, the first colonial assembly met in Jamestown, Virginia. This consisted of the governor and his council, and two representatives from each of the eleven boroughs then established, which representatives were called burgesses. The adoption of this popular portion of the government marks the predominant feelings of the time; and though Yeardley's sanction was necessary, the proposal to elect burgesses evidently came from the colonists themselves. In this assembly all matters were debated appertaining to the colony. Their laws, however, required to be formally ratified by the company in England.* The consequence of this change was immediately apparent. "They fell to building houses and planting corn, and fearlessly resolved to perpetuate the colony."

The next circumstance to which the historian refers

* Bancroft, vol. i. p. 153. I may say at once, that I shall quote Mr. Bancroft throughout, when referring to this early history of America. He most carefully adduces his authorities, and is conscientious in the use of them. A safer guide could not be found. The history of Virginia is a curious chapter in the history of England, and illustrates the latter in a remarkable manner. Mr. Bancroft does not state whether the burgesses sat apart from the council, or whether they assembled in one chamber.

is of the highest interest, and tends to show that all the great questions respecting the planting of colonies were discussed carefully by the sagacious men who then founded ours, and who have left us little to discover in the so-called "art of colonization." I will quote again, in this instance, the words of Mr. Bancroft. The subject is of primary importance, and deserves to be supported by the most weighty authority:—

"The patriot party in England now possessed the control of the London company, engaged with earnestness in schemes to advance the population and establish the liberties of Virginia; and Sir Edward Sandys, the new treasurer, was a man of such judgment and firmness, that no intimidations—not even threats of blood—could deter him from investigating and reforming the abuses by which the colony had been retarded. At his accession to office, after twelve years' labour, and an expenditure of eighty thousand pounds by the company, there were in the colony no more than six hundred persons, men, women and children; and now in one year he provided a passage to Virginia for twelve hundred and sixty persons. Nor must the character of the emigration be overlooked. 'The people of Virginia had not been settled in their minds;' and, as before the recent changes, they had gone there with the design of ultimately returning to England, it was necessary to multiply attachments to the soil. Few women had as yet dared to cross the Atlantic; but now the promise of prosperity induced ninety agreeable persons, young and incorrupt, to listen to the wishes of the company and the benevolent advice of Sandys, and to embark for the colony,

where they were assured of a welcome. They were transported at the expense of the corporation, and were married to the tenants of the company, or to men who were well able to support them, and who willingly defrayed the costs of their passage, which were rigorously demanded. The adventure, which had been in part a mercantile speculation, succeeded so well, that it was designed to send the next year another consignment of one hundred; but before these could be collected, the company found itself so poor, that its design could be accomplished only by a subscription. After some delays, sixty were actually despatched, maids of virtuous education, young, handsome, and well recommended. The price rose from one hundred and twenty, to one hundred and fifty pounds of tobacco, or even more, so that all the original charges might be repaid. The debt for a wife was a debt of honour, and took precedence of any other; and the company, in conferring employments, gave a preference to the married men. Domestic ties were formed, virtuous sentiments and habits of thrift ensued; the tide of emigration swelled; within three years, fifty patents of land were granted, and three thousand five hundred persons found their way to Virginia, which was a refuge even for puritans."*

The formation of a popular power in the colony was, though not openly approved, silently permitted by the company. At length, the company, in 1621, by an ordinance dated July of that year, promulgated a constitution for the colony. Every constitution framed by Eng-

* Bancroft, History of America, vol. i. p. 155-157.

land for a colony since that period has followed the model of that which this company adopted. It set forth, as a preamble, "that the object sought was the greatest comfort and benefit of the people, and the prevention of injustice, grievances, and oppression."

The administrative body was composed of a governor, appointed by the company, and a permanent council, also appointed by the company. The legislative body was a general assembly, composed of the governor, the council, and burgesses to be elected from each of the several plantations by their respective inhabitants. This assembly was to be convened once every year, and had full legislative authority—a negative voice being reserved to the Governor; and no law or ordinance was to be valid unless ratified by the Company in England. One step, of a peculiar nature, followed, and pointed most significantly to future events. The Company solemnly bound itself not to impose laws on the colony without the consent of the Colonial Legislature. When afterwards the King superseded the Company, and the Imperial Government occupied the relative position of the Company to the colony, this promise was not considered binding. The Imperial Parliament deemed itself supreme, struggled with the colony, and eventually lost it, because the prudent and long-sighted resolution of the Company, which founded the new community,* had been disregarded.

In addition to the Legislative, there was also a judicial body instituted; and their proceedings were ordered

* Bancroft, vol. i. p. 157.

to be in all things conformable to the laws and manner of trial used in the realm of England.

The next succeeding years were, as regarded the colony, years of prosperity. But, at this time, the great obstacle to American happiness was reared by English hands. Those men who had contrived and fashioned a rational plan for the preservation of liberty, and security, and happiness, forgot, in their eager pursuit of wealth, the dictates of justice, as well as of policy; and SLAVERY was allowed, in her most degrading and degraded form, to raise her horrid front amid a people of freemen. I need not dwell upon this painful spectacle. Such an evil cannot be brought again to life in an English community. Hereafter, we are to expiate the evil deeds of our ancestors, by labouring without respite in the great cause of human freedom, and by spreading a race of freemen, hating black as well as white slavery, over the many vast territories that belong to England. We are destined to be the chief and most effective opponents of a system which once we too successfully supported.

The King, finding the Company unwilling to listen to his behests, and refusing, at his dictation, to elect their officers, determined to overturn the Company, and resume the powers granted by the charter. Commissioners were sent to America, to inquire into the condition of the colony. These Commissioners seized the records, imprisoned the deputy-treasurer, examined witnesses, and intercepted private letters. They easily found evidence against the Company; some of which evidence, though thus collected, was honest. Smith, well known in Virginian history, was examined by them; "his

honest answers," says Mr. Bancroft, "plainly exposed the defective arrangements of previous years, and favoured the cancelling of the charter as an act of benevolence to the colony." Hereupon, the King determined to remodel the charter—in fact, to subvert the Company—and take back the powers which the first charter had reserved to the Sovereign, but which, under the advice of Cecil, had been granted to the corporation. A *quo warranto* was issued; and the Company was called upon for its defence. Commissioners were now again sent to the colony; there they found the colonists ready to throw off the Company, but utterly averse to submit themselves to the government of England, or the arbitrary will of the King. A remarkable distinction was now insisted on for the first time, which exercised a most potent influence throughout the remaining colonial existence of these communities. The King was spoken of as the King of Virginia. The supreme power in the colony was said to reside in the hands of the colonial parliament, and the King, as King of Virginia. This principle was never forgotten by the colonists, though it slumbered for many years after the revolution of 1688. The sturdy republicans of New England carried it still further: they, from the first, insisted upon their independence, and resisted, as long as they were able, the acts of the English Parliament; by which the celebrated system of our colonial monopoly was erected, and our Navigation Laws were enacted. The colonies yielded, indeed, to the superior force of England on that occasion; but, in due time, they renewed the contest, and with a different result. They not only withstood the enforcement of our law, but recurring to

their ancient doctrine, and dearly prized independence, cast off for ever the dominion of England, and called into existence the gigantic republic, which will ever remain the lasting memorial of our glory and our humiliation.

In June, 1624, the Court of King's Bench, during Trinity Term, gave judgment on the *quo warranto* against the Company. The House of Commons even did not attempt to protect this unpopular corporation. Its patents, therefore, were cancelled, and the Company was dissolved. Such was the first experiment of colonizing by a chartered company; and this experiment suffices to condemn the system.

A more favourable opportunity was never afforded for the successful employment of such a machinery. The company was composed of men of great power, wealth, and intelligence. The country to which colonists were sent was fertile, blessed with a healthy climate, and was found to possess a staple commodity, which proved the source of great and steady wealth; but a wealth that could only be attained by care and labour. There arose, therefore, none of the mischief that befalls a colony which gambles in mines. Steady habits of industry and thrift were acquired by the people; who, as a community, were likely to flourish, if permitted fairly to exercise their ingenuity and industry in the production of the fortunate commodity, tobacco, by which they could obtain an ample reward for their labour and capital. But the company could derive no advantage from the mere comfort and happiness of the colonists; they, as landlords, could hope for very small returns in a country in

which new and fertile lands could be obtained without limit. In any other shape, there was no chance of a return, except by the sale of the lands; and by this sale very little could be expected,* and that little could be acquired only with great trouble, and great discontent. The people might very naturally ask, why a company should derive a dividend from the sale of land which properly ought to form a portion of the community's wealth. Complaints, as we have seen, were rife; the colony were glad to see the company dissolved, hoping that the rule of a nation would be less onerous than that of a mercantile corporation:—that a King and a Parliament would not look for a dividend; would see that a tribute was impossible; and be content with the national benefit resulting from having an increasing and thriving body of customers for English productions, for which the colonists were able to pay in produce desired and prized by the people of England. But notwithstanding all the advantages under which the attempt was made, this chartered company failed in every way. It failed first as a mercantile speculation; it failed next as an instrument for the planting of a colony; and lastly, it failed egregiously as a means of governing the rickety thing they had called into life. After such an experience, may we not wonder when we see attempts made to revive this exploded scheme, and descriptions

* Mr. Bancroft, when speaking of the extinct company, says, "that the members were probably willing to escape from a concern which promised no emolument, and threatened an unprofitable strife."—Vol. i. p. 193.

hazarded which assume the plan never to have been before essayed?

But if this instance be not sufficient, we have yet more to learn from the attempts made by our forefathers in schemes and adventures for the planting of colonies.

Under the fostering care of the imperious Strafford, taking its name from the proud and fierce Henrietta Maria, the ruler of her hen-pecked husband, Charles I. —by the active labours of a papist peer, the colony of Maryland was founded, and in itself and its institutions afforded an example of a happy, free, and tolerant community. Sir George Calvert, member for Yorkshire, and secretary of state, had been early charmed and excited by the stories of American adventure. He longed to be the founder of a state. His power, his wealth, his own exertions were employed to plant a colony on the Avalon, a river in that island of fish and fog—Newfoundland.* He failed, but turned his attention to Virginia; but Virginia hated Popery, and no sooner was Sir George Calvert known to be within her territories, than he was pestered and persecuted by demands to take anti-catholic oaths, and thereby forced to leave this vineyard of the saints—this chosen seat of Protestant purity. Virginia, however, having experienced the tender mercies of James I.'s obsequious judges, lost her charter, and with it her rights to the enormous territories which that charter conveyed. Charles conferred, from a portion of

* There are persons who say that neither the fish nor the fog are to be found in Newfoundland, though they abound around it. This may be true—the climate is, nevertheless, bleak and miserable; the soil wretchedly poor.

the recovered domains, the site of a new state upon Sir George Calvert, now created Lord Baltimore. Lord Baltimore, dying soon after, bequeathed his estate in America, and his wish to found a province, to his son. Before his death, however, he was able, as it is said, to write for that province, not yet even begun, a constitution, as a guide for his son, and a rule of government for his future dominions. By this charter, the power of self-government was conferred on the colonists, and perfect liberty of conscience was established, and—the colony flourished from the first. The enthusiasm of the historian leads him thus to describe this remarkable event in the history of colonies—an event occurring in the reign of Charles I., under the auspices of Strafford, and by the immediate command of a Roman-catholic peer:—

"Calvert deserves to be ranked among the most wise and benevolent law-givers of all ages. He was the first in the history of the Christian world to seek for religious security and peace, by the practice of justice, and not by the exercise of power; to plan the establishment of popular institutions, with the enjoyment of liberty of conscience; to advance the career of civilization, by recognising the rightful equality of all Christian sects. The asylum of papists was the spot where, in a remote corner of the world, on the banks of rivers which as yet had hardly been explored, the mild forbearance of a proprietary adopted religious freedom as the basis of the state."*

"It is a singular fact, that the only proprietary

* Bancroft, vol. i. p. 244.

charters productive of considerable emolument to their owners, were those which conceded popular liberty. Sir George Calvert was a Roman-catholic; yet far from guarding his territory against any but those of his persuasion, as he had taken from himself and his successors all arbitrary power, by establishing the legislative franchises of the people, so he took from them the means of being intolerant in religion, by securing to all present and future liege people of the English king, without distinction of sect or party, free leave to transport themselves and their families to Maryland. Christianity was by the charter made the law of the land, but no preference was given to any sect, and equality in religious rights, not less than in civil freedom, was assured."*

The King renounced by the charter all power of superintendence, expressly covenanting that neither he, nor his heirs, nor his successors, should set an imposition or tax on the people of the colony.

The proprietary, as he was called, had certain powers granted him which were never seriously exercised. The advowson of all the churches was his; so also was the power to create manors and courts baron, and of establishing a sort of feudal aristocracy. But aristocracy was a plant not destined then, or in our time, to flourish in America. The brother of the second Lord Baltimore led the first band of colonists. "No sufferings were endured—no fears of want were excited; the foundation of the colony of Maryland was peacefully and happily

* Bancroft, vol. i. p. 242.

laid. Within six months it had advanced more than Virginia had done in so many years." Lord Baltimore, indeed, liberally aided his new subjects, and in two years expended for them upwards of forty thousand pounds. Everything prospered under the tolerant sway of the papist lord; and, says the New England historian, "Protestants were sheltered against Protestant intolerance."* The colony had a legislative assembly; the second time it met, which was in 1638, it rejected the code of laws made by the proprietary, asserted their own right to make laws for themselves, and enacted a body of laws. Of this code, however, no record remains, as it was not ratified.† Shortly after, a regular system of representation was adopted, the House of Burgesses was separated from the Council, and the new colony advanced cheerfully under the rules of its own government, till English quarrels disturbed their peace, and for awhile overturned their free system, and ousted the proprietary. After a series of troubles, all arising from this cause, the people of the colony took the matter into their own hands, settled their own government, and in the year 1660, declared that the only lawful authority in the colony were the Assembly and the King of England.

The colonies of New England exhibit in a yet stronger light the effect of private interest, and of self-government upon the happiness of a colony. The pilgrim fathers, and all who laboured in the arduous task of establishing a new community in the regions which they

* Bancroft, vol. i. p. 248.

† I have a shrewd suspicion that this code exhibited symptoms of intolerance, and that Mr. Bancroft was glad *not* to find it.

selected for their new home, found a severe climate, and a sterile soil, and fierce and hostile tribes of savages to oppose them in all their efforts. Moreover, they were poor, and they were cruelly intolerant. They, nevertheless, were possessed of an unconquerable will; for many years they had the inestimable benefit of *neglect* on the part of government, to aid them, and, spite of all opposition, they succeeded. On the very spot where they established a colony, which was destined, more remarkably than any of the other colonies of the celebrated union to which they belong, to give the new people of America a distinctive and peculiar character, in this very region, the corporation of western knights and gentlemen of which I spoke above, utterly failed. "While English monopolists were wrangling about their exclusive privileges, the first permanent Colony of New England was established without the knowledge of the corporation, and without the aid of King James."* This permanent colony was that now famous in story as the home of the Pilgrim Fathers. Its history contains within itself the whole epitome of the difficulties, the means of success, which attend on the planting of every new community. The early settlers had poverty to contend with; they had also a sterile soil, a severe, though healthy climate, opposing proprietors, contending and contentious monopolists, a meddling, though fortunately an inert and indifferent King, a savage and a civilized enemy—viz., the Indians and the French. Besides these difficulties, they had

* Bancroft, vol. i. p. 274.

within themselves all the conceit, hate, cruelty, and ignorance, which so often attend those men who have borne persecution for the sake of their religion; yet, in spite of all these things, they were enabled at length, after singular toil, with great patience, and prudence too, and by a mighty courage, to win their way against hard fortune. They did this because they governed themselves, and for many years were so poor as to offer no temptation to the government at home to notice them. While left to themselves to live as they could, and succeed as they might, they acquired not only the habits of independence, but the habits of self-government. They learned to be obedient to the determinations of the majority, and to acknowledge the supremacy of the law. They also, by bitter experience, learned to know the proper limits of the majority's power. Learning those limits, the majority ceased to trench upon the wishes of the minority, in all cases not involving the general weal. They, in their own persons, had vindicated the sacred rights of conscience. But they had done so, because they believed that they alone were in the right —that they alone had been enlightened by the true faith. Conceiving themselves to be thus particularly blessed, and especially favoured, they desired to communicate their peculiar blessing, belief not being a riches that becomes less by being shared, so they insisted upon all who came within their dominion accepting their word for the true gospel wisdom; and when they found stubborn people who did not put implicit faith in these pretensions—people who were very like themselves, and also conceived that they alone had the

right insight into mysterious things—our worthy friends, the liberty-seeking puritans, began to persecute, showing that their resistance under persecution by no means was accompanied by a hatred of persecution. They did not blame the persecutors of themselves because they were persecutors, but because they persecuted the truth, which they, the persecuted, believed to reside in their own persons alone. When they obtained the upper hand, they therefore persecuted in their turn. But in time, they learned that such conduct was folly, as well as wickedness. Thus, by degrees, they affixed due limits to power; and learning accurately what these limits ought to be, they submitted themselves cheerfully to all the decisions of the majority made within these limits, which limits the majority, on the other hand, in consequence of this same teaching of experience, learned never to pass—never to wish to pass. This teaching has given the New Englander his peculiar fitness for self-government — a fitness which shows itself most strikingly when he is called upon to brave the difficulties of a new settlement, and which has consequently made him the pioneer of the western wilds—the real founder of the Prairie States. A new settlement of men from New England, all brought together by chance, and without any predetermined arrangement, at once, by a sort of instinct, fall into order. Suppose a band of veteran soldiers—men long accustomed to discipline, and to act with one another—these men, after a day's march, halt, pile their arms, and prepare to encamp for the night; one is here cutting wood, another is there bringing water from the stream, some are making a fire, and pre-

paring their evening meal, and some are arranging their lodgings for the night;—on a sudden, while they are thus engaged, separated and all (not in disorder) but without order, an alarm is given, the enemy is near. Watch these men, and count the minutes it takes them to be in line, each one occupying his proper position. All as if by magic is now order; the officer commands, the force is in array, and the great military instrument, a body of men drilled to act in concert, and in obedience to a law, is there in a moment to be seen, a beautiful, compact, and regular mass, formed at once out of elements apparently confused and heterogeneous. Such is an accurate illustration of a new settlement by new England men, and of old Englandmen also, for they have the same habit of obedience in the right place, and capacity for command, when to command is necessary. This inestimable quality is possessed by no people in the same degree; a Frenchman, for example, has it not. With him, all government is force. When in command, he transgresses the limits which every majority ought to set to its own power; and when he is to obey, and thinks himself oppressed, he fights. The consequence is, and the evil thereof is a misfortune for mankind, the French nation has not yet acquired the faculty of self-command. That faculty can only be acquired by experience, and that experience is a slow and dangerous process when the learners are a powerful, energetic, and in other things, an intelligent nation.

The Charter of Massachusetts was granted by Charles I. in 1629, and constituted, as a body politic, the Governor and Company of Massachusetts Bay.

The administration of its affairs was intrusted to the governor, deputy-governor, and eighteen assistants, who were to be elected annually by the stockholders of the corporation. Of the stockholders, there were four quarterly meetings in the year, in which laws were passed, and supervision exercised; but the affairs were under the immediate direction of the governor and assistants. The laws of the Company needed not the king's approval, because they were looked upon as the bye-laws of an ordinary corporation; and as this corporation was created for the purpose of planting a colony, the laws which it made respecting that colony, and the regulation of its affairs, were bye-laws of the Company made in pursuance of the end for which the corporation was chartered, and such bye-laws were therefore within the purview of the corporate powers. By a general clause of the charter, (which, however, was not necessary, because the effect of the clause is a rule of common law,) the Company was forbid to "make laws repugnant to the laws and statutes of the realm,"—a sort of vague rule which answers little purpose, creating doubt, indeed, but in no way guiding the Company, or the Courts of Law, who might have to decide whether the Company had transgressed the law. The observations of Mr. Bancroft on this charter are pertinent to my present purpose. He says—

"The political condition of the colonists was not deemed by Charles a subject worthy of his consideration. Full legislative and executive authority was conferred not on the emigrants, but on the company, so long as the charter of the corporation remained in England. The associates

in London were to establish ordinances, to settle forms of government, to name all necessary officers, to prescribe their duties, and to establish a criminal code. Massachusetts was not erected into a province, to be governed by laws of its own enactment: it was reserved for the corporation to decide what degree of civil rights its colonists should enjoy. The charter on which the freemen of Massachusetts succeeded in erecting a system of independent representative liberty, did not secure to them a single privilege of self-government, but left them as the Virginians had been left, without one valuable franchise, at the mercy of a corporation within the realm. This was so evident, that some of those who had already emigrated, clamoured that they were become slaves."*

The charter contained no provision for the residence of the rulers of the company. It was supposed that they would remain in England, and hold their courts there; but there was no direct provision by which they were compelled to do so. "What if the governor, deputy, assistants, and freemen should themselves emigrate, and thus beat down the distinction between the colony and the corporation? The history of Massachusetts is the counterpart to that of Virginia; the latter obtained its greatest liberty by the abrogation of the charter of its company; the former by a transfer of its charter, and a daring construction of its powers by the successors of the original patentees."†

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* Bancroft, vol. i. p. 344.

† Idem, 345.

There is a touching scene described of the band of emigrants leaving England, under the powers of this charter, and taking their way to the desert lands of a far-distant continent, in the hope of there finding peace, and the power of worshipping God according to the mode they believed correct. The love of their native land was still fervent in their breasts. Home—that home in which these people had felt sharp persecution—was still the beloved home of their childhood and youth, and, to many, of their manhood; for aged men were quitting their native land. Stern men—men of grave thought—and even ascetic, rigid, harsh feelings, melted and shed tears when this land of their forefathers sank down below the horizon; and then, in the agony of their grief, there was no indignant word of parting, but the mournful and touching exclamation, "Farewell, dear England—farewell!" It required a long course of folly, wickedness, and much unreasoning tyranny, to eradicate this strong affection, and in the place of an emotion so tender, to plant a fierce and bitter hate. But our rulers have succeeded once in accomplishing this feat—they seem resolved to lose no opportunity afforded for repeating it.

This emigration must have been a matter of remarkable and general interest. Of this we have a curious proof. The emigrants amounted altogether to about three hundred souls; and having left England in search of religious freedom, and because they had been persecuted, they no sooner lost sight of the shore than they began to quarrel, and to persecute one another. A division took place, and some returned home. These persons published an account of their proceedings, which

had been written by Higginson, the leader of the emigrating band. This little work ran through three editions in a few months.*

A scheme was now devised in England to transfer the seat of the company from England to America, and an agreement was entered into at Cambridge by certain men of fortune and education, to emigrate, if the transfer of the government could be legally made. The company debated this point with great earnestness, and at length determined that the government and the patent should be transferred beyond the Atlantic, and settled in New England.† By this means the company became a colony, with power to govern itself; the inhabitants of the colony were members of the company, and in that capacity voted and acted;—a lucky idea, and leading to much good, but clearly an evasion of the law. Of the persons who had thus resolved, when the time came for acting upon it, many grew frightened. A man now celebrated in the history of Massachusetts had been chosen governor in October. This was John Winthrop; and by his courage and determination, the greater part of

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* When afterwards Boston was founded, Massachusetts Bay was thronged with vessels containing emigrants, because these first were but pioneers, many people intending to follow. "The emigrants had from the first been watched with intense interest;" a letter from New England was venerated "as a sacred script, or as the writing of some holy prophet, and was carried many miles, where divers came to hear it."—Bancroft, vol. i. p. 382.

† Mr. Bancroft quotes a resolution "to take advice of learned counsel, whether the same may be legally done or no," on Sept. 29, 1629. I know not whether such advice ever was taken, but sure I am that the proposal was *illegal*, though for the colony beneficial.

the emigrants were kept together, and induced to abide by their first intention. When they were come to Southampton, in order to embark, more again became alarmed, and turned back; of these, some were officers who had been chosen by the company. Their places had to be filled up; and a court of the company was held on board the ship which took them out. Seventeen ships were employed during the season, and took out, as was computed, fifteen hundred souls. The first band who carried out the charter, and who were headed by their governor, Winthrop, amounted to eight hundred. These were Puritans in religion and Independents in politics—many of them "men of high endowments, large fortune, and the best education: scholars well versed in all the learning of the times, clergymen who ranked amongst the most eloquent and pious of the realm." These men thought it right to publish the reasons for their emigration, and to "bid an affectionate farewell to the church of England, and the land of their nativity." They arrived in America in June and July, and on their arrival, found the emigrants who had preceded them starving, and suffering from disease. The miseries to which all these new comers, as well as they who had been some time on the land, appear to have been subjected, was most trying, and to us, at this day, can hardly be accounted for, excepting by the fact that they were persons wholly unfit for the task of commencing a settlement. Many of them had always been accustomed to the comforts of a civilized life, and were not able to work with their hands, or to brave the vicissitudes of heat and cold to which the climate of Massachusetts is subject.

Two hundred died before December; and from the descriptions given of death-beds and pious ejaculations, and exhibitions of faith, &c., from which fanatics of this class are accustomed to derive much of the only excitement in which they are permitted to indulge, and in which, consequently, they passionately delight, it is more than probable that much of the sickness and mortality which occurred was owing to the melancholy and despondency which had been occasioned by leaving England. The notion of duty which had induced them to desert their homes, could not protect them from the sadness and dejection which was the natural result of obeying a sudden impulse of this description.

This body of settlers founded the city of Boston, and set themselves to the task of legislating for the rising colony. The story of the persecuting laws which they enacted, and the persecutions of which they were guilty, has been often told, and need not be here repeated. The results of their various struggles, as exhibited in the political institutions which they at last obtained, is all that I desire to describe; and this may be briefly done. The colonists very soon found that their plan for transplanting their charter did not relieve them from difficulties connected with their government. They who formed the company, when they came to the settlement, were not willing to divest themselves of exclusive power, and share it with the whole body of settlers. These by law had no title to any such privilege, and the actual proprietors did not change either their nature or their rights by emigrating to America. The people were disappointed, and resisted the dominion of the stock-holders:

And as the latter were comparatively few, and present on the spot, they were the more open to the effects of persuasion as well as force. In 1635, the people demanded a written constitution, and a commission was appointed "to frame a body of grounds of laws in resemblance to a Magna Charta." The ministers of religion insisted that God's people (which they declared themselves especially to be) should be governed by the laws which God gave to Moses. This suggestion was not adopted, but a dispute commenced which continued for ten years; and one thing deserves peculiar remark. These saints who left England because of persecution, and who describe one another in fulsome terms of mawkish praise, were no less averse to parting with exclusive power than a company who sought only the mammon of unrighteousness could have proved. They did not at once, on landing, enact a liberal constitution such as the papist and peer, Lord Baltimore, had voluntarily drawn up and granted; but they carped, cavilled, quibbled, and held by what power they had, and grasped at more. Some of the modes of attaining their illiberal ends are more ludicrous than edifying. A dispute had continued for years between the assistants and the deputies. Both classes were elected by the people. But the assistants were the "patricians," being, in fact, the remains of the old company, and members of the richer portion of the emigrants. The two bodies acted together in convention; but it appeared that the assistants claimed to have, as a body, a negative on all the proceedings. This would appear to mean that they sat with the deputies, spoke and acted with them, and then, when the majority had decided, they, the assistants,

asserted that they had the right, sitting by themselves, to re-consider and decide upon the resolution to which the majority of the convention had arrived. A shorter, simpler, and, indeed, more honest proposal, would have been to sit in a separate chamber, and form a distinct and separate body. The representatives resisted their pretensions, "yet," says Mr. Bancroft, with a sort of grave slyness, that rather smacks of the puritan school, "yet the authority of the patricians was long maintained, sometimes by wise delay, sometimes by a 'judicious sermon;'* till at last a compromise divided the court into two branches, and gave to each a negative on the other."

A serious quarrel afterwards separated the emigrants, and Roger Williams, in consequence, led away a certain number to Rhode Island, and laid the foundations of a new town and a new colony. He had declared openly his opinion on the subject of religious freedom, and stated that, in his belief, the excluding doctrines and conduct of the saints of Massachusetts were erroneous and wrong; so they persecuted, imprisoned, and in the end, banished him. Though the sentence of exile was passed, he had asked and obtained permission to remain at Salem, where he had hitherto been the minister, until the spring should come, it being winter when the sentence was pronounced against him. But his former flocks were strongly attached to their pastor, and

* The inverted commas over the words *judicious sermons* are not mine. They are in Mr. Bancroft's text, and the words, I suspect, are taken from some grave reverend historian, whose name Mr. Bancroft has not in this particular instance given.

thronged his house to hear the last exhortations he was permitted to afford, or they to hear from him in that place. This enthusiasm created fear in the magistrates of Massachusetts, who were aware of the intention of Williams to proceed in the spring to Rhode Island, in order there to lay the foundation of a new settlement. This now appeared a dangerous project—dangerous to Massachusetts; as so beloved a pastor might prove in many ways a formidable rival. They therefore determined to seize and transport Williams to England: fear or hesitation was not a weakness which these men ever evinced; they determined boldly, and as boldly acted. Upon hearing this, Williams, who well knew the men he had to deal with, left Salem secretly, and took refuge with an Indian named Massasoit. The Sachem of the same tribe, the Narragansetts, named Canonicus, afterwards, with his son, Miantonomoh, gave him a large tract of land in Rhode Island. Here, in the next June, Williams, with five persons, landed; and beside a spring, near the spot, laid the foundations of PROVIDENCE, "as a shelter for persons distressed for conscience." The liberty Williams preached, he granted to others. Eventually, Rhode Island received a charter from Charles II., which was supposed to have been drawn by Clarendon. That charter remained, long after Rhode Island became independent, the constitution of the state.*

* By a singular fatality, they who in Europe acted as despots, and the friends of despots, were among the chief friends of freedom in America during her early days. They who had in Europe struggled for freedom, and insisted upon their right to be free mentally and physically, were the chief persecutors who figure in early American annals.

The increasing wealth and success of Massachusetts attracted the attention of many in England of birth, station, and large fortune. The severe proceedings of Charles induced them to look abroad for a home. Vane actually proceeded to Massachusetts, and lived there many years, and was chosen governor of the state. But not only was the attention of the noble and rich, as well as poor, directed to Massachusetts—the King's, also, was drawn towards the colony, as to a nest of Puritans; and he proceeded to root out, and, if possible, to destroy it. A *quo warranto* was issued against Massachusetts in Trinity term of 1655. This charter, however, unlike that of Virginia, found defenders—and stout defenders, too—in the people of the colony; simply because there was really no English company now concerned in it; but the people and company were one. This result was fortunate for all parties, and was happily arrived at, after continued discussions and quarrels, before the royal mind became interested concerning them or their institutions. Charles was, however, unable to pursue his design against the offending colony, having his own crown and life to defend against these puritans whom he so bitterly hated, and had so deeply injured.

In the long interval which elapsed from this period to the recall of Charles II., in 1660, a happy neglect attended New England. In those years (really a quarter of a century) they governed themselves—asking England for nothing—receiving from her nothing, for which she did not receive ample return.

Massachusetts was a favourite with Cromwell, and, while he "ruled, met with the utmost indulgence. From 1640

to 1660, it approached very near to an independent Commonwealth. The House of Commons, in a memorable resolution, on the 10th of March, 1642, passed in favour of it, gives New England the title of *Kingdom*. The Commissioners for New England, sent over by Charles II., assert in their narrative, that the colony solicited Cromwell to be declared a free state—which is not unlikely."*

The rapid increase of the inhabitants excited alarm in the minds of the native tribes who surrounded the plantations; and fierce conflicts had to be waged with the Indian, who attempted to expel these ever-encroaching invaders of his wilderness. The danger, which was great for many years—the alarm, which was constant, made the whole body of the people a hardy, brave, and energetic race. The soil—as I have already remarked—was so sterile, as to return but a niggard harvest to the husbandman; who was forced, therefore, to severe and unceasing toil, in order to win from it even a scant subsistence. But the sea was more beneficent: the fisherman found in the bays and rivers of the country a means of obtaining subsistence and wealth. This led the people to become fishermen and sailors; and the ships of New England were soon seen in every sea; and her hardy seamen, as whalers, in the language of Burke, soon pursued their gigantic game from the Equator to the Poles. Up to the time of our Revolution, in 1688, the reigning feeling in NewEngland was that they were, in fact, an independent people. To the King of England

* Gordon, History of America, vol. i. p. 32.

they faintly acknowledged themselves to owe some sort of allegiance—what sort, and to what extent, was difficult to be ascertained. Under this notion of independence they acted, pursuing their own interests as to them seemed fit, and establishing with every customer and country that offered, such traffic as their capabilities permitted. They consequently rapidly improved in substance. Increasing wealth brought with it softened feelings and gentler habits. The good and sterling portion of the Puritan remained, and produced its admirable fruits in the energy and virtue of the people; while all the sterner and cruel characteristics of their class were, by constant collision with their neighbours and the world, so checked and subdued as to seem almost effaced, leaving traces only of a certain gravity of deportment, and harmless asceticism in their religious observances, which, to this hour, belong to, and distinguish, this singular people. They form, by far, the most remarkable portion of the American people, and have given to the character of the whole nation those traits, whether attractive or the reverse, which distinguish them as a people from the rest of mankind. If by some unfortunate combination of circumstances the colonists of New England could have been withdrawn from America, and directed elsewhere; and if, in consequence, New England had never arisen, and taken her place in the great federation of America, we should not, at this moment, behold the wonderful spectacle which that vast continent now exhibits. People, and provinces, and wealth, there would undoubtedly have been, but not the people we now see—not that busy,

hardy, adventurous, shrewd, and enlightened race, whose swarms are spreading from the Atlantic Ocean to the Pacific—who will push up to the Pole, and down to the Equator. Without New England, and New Englanders, the Americans might, and probably would, have proved a more winning and attractive people than they now are, but they would not have proved themselves that *great* people we now behold.

Rapacity was not, however, easily satisfied. The courtiers of Charles II. believed, as their fathers had done, that great store of wealth might be obtained in the regions of America; and the most powerful nobles of the court of Charles united to plant a colony, to which they gave the name of their royal master. Such were the auspices under which CAROLINA became a colony. Lord Clarendon, Monk, from a republican general become Duke of Albemarle, Lord Craven, Ashley Cooper Lord Shaftesbury, (he and Monk must have looked significantly at each other sitting at the same council table,) Sir John Colleton, Lord John Berkeley, Sir William Berkeley, and Sir George Carteret, were, by royal charter, constituted the proprietors, and immediate sovereigns of the province, extending from the thirty-sixth degree of north latitude to the river San Matheo. Their rule was nearly absolute under the charter which they had obtained from the dissolute and reckless Charles, under the pretence "of a pious zeal for the propagation of the Gospel." In 1665, another charter was obtained from the crown by Clarendon, which charter gave him and his associates all the territories from the Atlantic to the Pacific, lying between

twenty-nine degrees and thirty-six degrees thirty minutes of north latitude. This extravagant gift included what are now the States "of North and South Carolina, Georgia, Tennessee, Alabama, Mississippi, Louisiana, Arkansas, much of Florida and Missouri, nearly all Texas, and a large portion of Mexico."* For this territory Locke was asked by Shaftesbury to frame a constitution. The proprietors had received with the land ample powers from the Crown.

"An express clause in the charter for Carolina opened the way for religious freedom; another held out to the proprietaries a hope of revenue from colonial customs, to be imposed in colonial ports by Carolina legislatures; another gave them the power of erecting cities and manors, counties and baronies, and of establishing orders of nobility with other than English titles. It was evident that the founding an empire was contemplated; for the power to levy troops, to erect fortifications, to make war by sea and land on their enemies, and to exercise martial law in cases of necessity, was not withheld.† Every favour was extended to the proprietaries; nothing was neglected but the interests of the English Sovereign, and the rights of the colonists."‡ But these great powers availed nothing. Colonists had already come from Virginia and Massachuserts, men determined to govern themselves after their own fashion. They

* Bancroft, vol. ii. p. 138.

† The Crown had clearly no power, legally, to make such a grant. Clarendon deserved to be impeached for having put the great seal to so flagrant a violation of the law.

‡ Bancroft, vol. ii. p. 138.

rejected the complicated scheme of Locke—they resisted the proprietary. They quarrelled with every governor that was sent; and, in 1688, their parliament formally deposed Colleton, the brother of the proprietary Sir John Colleton, and who had been created Landgrave, a title in Locke's scheme, and sent out as governor over these refractory colonists. Having deposed, they banished him the province. From this period to the revolution, strife continued between the people and the proprietary. The latter were a clog, and did nothing but mischief. The colonists did everything for themselves, and would have been able to do more, had they not been crossed, vexed, harassed, and plundered by the proprietary. With the revolution the proprietary necessarily ended in name, as they had long ceased to rule in reality. They had failed in every endeavour from the commencement.

The history of Penn's doings is not so disastrous; simply, because he was compelled to follow the rule which he at the outset laid down for his own conduct: "Whatever sober and free men can reasonably desire for the security and improvement of their own, I shall heartily comply with." He found within the territories granted to him by Charles, many settlements already made; and he had the good sense to see that if he expected any kind or degree of profit, he must allow the people to govern themselves, and watch over and advance their own interests. He made and published a frame of government, but he left to the people the power to decide whether they would adopt it. "I purpose," he said, "for the matter of liberty—that which is extraordinary—to leave myself and successors no power of doing mischief; that

the will of one man may not hinder the good of the whole country." This was in reality the great benefit he rendered this new people—he stood between them and meddling—they throve because left alone, and he received advantage because he left them alone. Yet his rule was not borne without complaint, and his rights, like those of all the proprietary governments, came to an end. Having founded his colony and city, he sailed for England—and what says his admiring historian, "His departure was happy for the colony and for his own tranquillity. He had established a democracy, and was himself a feudal sovereign. The two elements in the government were incompatible; and, for ninety years, the civil history of Pennsylvania is but the account of the jarring of these opposing interests, to which there could be no happy issue but in popular independence."*

The colour given by Mr. Bancroft to all these proceedings of Penn is far more favourable to the Quaker legislator than that given by other historians. I own for myself I have no faith in any great pretensions made to sanctity and peculiar virtue. That Penn was a time-server and a hypocrite, I have no doubt, and that he was avaricious, is plain, from all his doings in America. He pestered the Duke of York into giving him large grants of territory in that country. It was for the interest of James to make and keep friends with this dissenter, and Penn wanted not the sagacity to understand the full value of his position. He afforded James the advantage

* Bancroft, vol. iii. p. 395.

of his countenance, which to a Papist was in those days valuable: but he required full payment for this service so rendered.

"Mr. Penn," says Gordon, "desirous of carrying his region southward to the Chesapeake, was continually soliciting the Duke of York for a grant of the Delaware colony. The prince, at length wearied out, conveyed in August the town of Newcastle, with a territory of twelve miles round, as also that tract of land extending southward from it upon the Delaware to Cape Henlopen. It was known to both parties that the title of what was now granted was extremely exceptionable, as the Duke could transfer no other right than mere occupancy in opposition to the legal claim of Lord Baltimore. Penn, however, who was intent on his own interests in these parts, immediately assumed the powers of jurisdiction."*

His life in America is, by romancing history, made a series of touching events, evincing what in the regular language employed on these occasions, is called a beautiful benevolence. Yet, in 1684, what did happen? The moment he returned home and left his colony, the people rose against him and his dominion.

"He departed for England. The most violent dissensions followed almost instantly upon it, the provincial council and the assembly contending eagerly with regard to their mutual privileges and powers."†

When the revolution of 1688 came, Penn was in danger. William did not like the Quaker friend of his

* Gordon, History of American Revolution, vol. i. p. 84.

† Ibid. p. 86.

father-in-law. But, nevertheless, Penn obtained the restitution of his colony, which for the moment had been withdrawn from him, and returned to Pensylvania. He met the representative assemblies, promising much. They disbelieved and distrusted him, and required further securities. "He gave," says Gordon, "evasive answers," but offered to leave the nomination of the deputy-governor to themselves. They declined it, and went upon a new charter of privileges." In consequence of this, Penn, after resisting as long as he was able, granted a second charter; and what approbation his conduct, as respects this so granted charter, was supposed to deserve, the people of the province shall declare for themselves. The practical conclusion from all such dissension is, that no subject ought to be intrusted with any of the powers of government.

"Notwithstanding that Mr. Penn is celebrated as the wisest of legislators, the assembly, about the year 1704, *unanimously* came to nine resolutions, in which they complain with great grief of him, 'for undermining his own foundations, and by a subtle contrivance laid deeper than the capacities of some could fathom, finding a way to lay aside the Act of Settlement, and dissolve his second charter.' He was likewise charged with having extorted from the province great sums of money. They complained also of the abuses of surveyors, the clerks of the courts, and justices of the peace, who, they said, were all put in by the proprietary, so that he became his own judge in his own cause. These and other matters were the heads of a representation, or rather remonstrance, drawn up and sent to Mr. Penn, then in England, in which he is

represented as an oppressor, and as falsifying his word, in almost every respect, with the provincials."*

In this dispute there seemed to be wrong on both sides, but the practical result for my purpose is the same.

While Penn was doing the least mischief, and most good, that a proprietary ruler could effect, James, Duke of York, his friend and patron, carried confusion, and distress, and trouble into every colony he could possibly meddle with. With him and his grasping avarice, and cruel bigotry, my purpose does not lead me to deal. The vices and errors which he evinced we need not fear: from the experience of his failures, therefore, we cannot derive any instruction. Direct, open, barefaced tyranny, like his, will not be in our times attempted. The danger which besets us takes the shape of mischievous meddling —a pretended beneficence, but real mischief—a pursuit of gain under the guise of philanthropy and patriotism. Colonizing and other societies, pretending pious and charitable aims, and extraordinary sympathy with suffering humanity—this is the shape the evil genius of colonization assumes in our days, and is unfortunately but too successful in duping the ignorant and unwary. The scheme is usually carefully devised, and artfully conducted. The projector of some such scheme, while enunciating to all the separate instruments he intends eventually to employ, the peculiar benefit each is to derive from his proposal, invariably begins with the capitalist who must set them all in motion, and whispers in his ear, that this admirable project is sure to be a

* Gordon, History of American Revolution, vol. i. p. 91.

safe and profitable mode of investment for his unemployed thousands. The wily projector then proceeds to whiten his nose by pouring into the enchanted ear of some amiably ambitious prelate winning descriptions of rising churches, and multiplied parishes, and troops of ordained clergymen, and young hierophants seeking ordination. From the lordly diocesan he next turns to Sir Thomas Leatherbreeches, the squire, and explains how, by selected couples taken from his troublesome parish, he can keep down the powers of increase, and check alike population and the rates. To the gentlemen of small fortune and a large family he is touchingly eloquent on the subject of the uneasy classes. In the fairy lands which lie so far away, young would-be husbands line the shores, and breathe soft sighs to the advancing bark which brings them wives, and perhaps a cargo of assorted goods. The girls whom he sees fading and cheerless, and wan and miserable, he fills with ecstasy, by vivid pictures of this new paradise for marriageable maidens; while the youths of the house are lured by histories of solid fortunes made with "ease and alternate labour," by gay scenes of exciting sport, diversified and *relieved* by just so much of highly profitable business as is needed to make a man happy and rich. To the unemployed engineer he talks of surveys without end, and canals, and bridges, and railroads, and mines. The over-stocked profession of the law, in both its branches, is not safe from the witchery of his delusions: judges are needed in new colonies, and every young barrister soon rises to wealth and power. And disease will come into fairy-land, but only just enough

to make it the happy home of the young doctor and his too teeming wife. • The clever artisan is quickly made to understand that these are the very circumstances which confer importance and dignity on the man of real knowledge. In these happy lands men take their rank by their usefulness and true science; and who possesses that in a degree to compete with the skilful artisan? At last, the poor ignorant, hard-handed, ill-fed working man is touched by tales of unceasing beer, and illimitable cheese, and beef and mutton at discretion, and five shillings a day, and a master hat in hand. This series of enticements skilfully, and by the great conjuror, is prepared to lay the ground for a scheme of shares, in which premiums, and discounts, and fluctuations, and fabulous wealth, and crowds rushing to be shareholders, are all made to perform their part, and the public are pleased, *the projector succeeds*—and all the misery that follows—who knows it—who cares about it? The game has been played, and the miserable dupes are disregarded and forgotten.

This game, fraught with severe disappointment to thousands, and the cause of great suffering and loss, as well as disappointment, was several times enacted during the colonization of America. Exactly the same lures were held out as we have witnessed of late years, and the very plans which were then tried and failed, are again attempted. We have seen nothing like the great Carolina scheme of Empire, with its caciques and landgraves, and other orders of nobility; but we have before our eyes every day deceptive promises of great wealth easily attained, pious professions, such as were pretended

by the vicious courtiers of Charles II., and vain devices for the relief of great distress. But we may be assured, that under the most favourable circumstances, they who plant a colony have much severe labour to undergo, great privations and suffering to encounter. By labour and patience, courage, prudence, and skill, a comfortable home, and cheerful prospects, may be attained. In this there is no romance; but here we see the hard realities, from which we cannot escape, by going to a new colony, no matter how beautiful the climate, how fertile the soil, how wise the government of that colony may be. That a great difference results from the mode in which the colony is managed is certain; but the really important result which ever recurs upon inquiry into the history of every colony is, that from the management of the concerns of the colony, the colony cannot be relieved; and that all who, under any pretence, propose to do this for a colony, mislead the people who go out as colonists, as well as those who expend their money to send them there. A joint-stock company which makes the attempt will fail, and will do mischief; and so will all separate projectors who seek to form a proprietary government. The whole history of American colonization proves this assertion, if we begin with Raleigh, and end with Oglethorpe. The last of these was almost a man of our days; our grandfathers certainly might have seen him. He was sincerely benevolent, and active, as well as well-intentioned. He wished to make his good wishes effective, and, like all who had preceded him in the planting of colonies, he failed, because he undertook to do for the colonists what they could do best for themselves.

George II. granted a charter to certain persons, who were constituted a corporation, and to them Georgia was given for twenty-one years "in trust for the poor." The date of this charter was June 9th, 1732. By it, the country lying between the Savannah and the Alatamaha, and from the head springs of those rivers due west to the Pacific, was erected into the Colony of Georgia. This last of our royal charters granted within the territories of the United States, was nearly as wild in certain of its provisions, as the first which our English King (Henry VII.) conferred respecting those regions. Without the slightest reference to the claims of other nations, two lines were drawn across the whole continent of America, from points utterly uncertain, and probably impossible of discovery or determination. This is the mode from which we were destined never to depart. Our blunders stuck by us to the last day of our dominion.

The whole powers of government were for twenty-one years given to the trustees under the charter, and to their assigns, and to such persons as they might appoint.* They began by excluding papists. The Society for the Propagation of the Gospel in Foreign Parts was exceedingly anxious to aid the colony, and caused this intolerant rule to be adopted; and parliament conferred on it at one time the sum of ten thousand pounds. Oglethorpe gave *himself* to the colony, and laboured in his benevolent scheme—which was, to take out poor people, and establish them in a new and happy home—with an activity and perseverance deserving of

* Bancroft, vol. iii. p. 419.

our highest admiration. The Society for the Propagation of the Gospel invited over certain poor Moravians, Protestants who had been persecuted in Germany, and sent them to Georgia, where papists in turn were persecuted. The personal exertions of Oglethorpe were of infinite service, for he was really interested in his work, and devoted himself entirely to it; but the trustees and their legislative authority were only mischievous in as far as the prosperity of the colony was concerned; and no trace remains of them in the legislation of Georgia. Oglethorpe had no thought of gain; he reserved nothing for himself; he never looked to making a property, as Penn and Lord Baltimore had done. He held the colony in trust, and when he gave up that trust, he gave up everything with it, not having one acre of land, and having spent his own substance in assisting the colonists. The trustees attempted three things, and in all they failed: two of these were mischievous; one a great good. In the evil and the good they failed alike. They desired to introduce a feudal tenure for the holding of land: the people resisted this proposal, and were successful in their opposition. The trustees desired to exclude ardent spirits from Georgia, and were so unwise as to prohibit their existence in the province: smuggling throve, and ardent spirits were drank in Georgia, in spite of all the legislative provisions of the trustees. And lastly, they desired to prevent the introduction of slavery; the good Moravians resisted temptation for a long time, and obeyed the wishes of their masters by resisting slavery. But the torrent was too powerful to be resisted. Slavery was introduced, and now Georgia stands, in the union,

pre-eminently a slave state. Thus we see that, for good or for evil, they were alike impotent. But they were not impotent for evil in another sense. They retarded the political education of the colonists; and they created dissensions, by attempting to exercise arbitrary power. This government of Georgia was among certainly the least mischievous forms of a proprietary, because its power was limited to so short a period; and, fortunately, a more virtuous creature never existed than Oglethorpe. He would, however, have led a happier life, and would have proved a more successful colonizer, had he made his colonists take care of themselves, in place of forcing them to receive him as their lawgiver.

From Gordon we learn that the Bank of England aided this colony, and that parliament gave money to it three several times; so that, besides private benevolence, the nation paid through parliament, for this colony, £56,000; which large sum was exclusive of what it received from the Bank of England, and other private sources of benevolence. The remarks of Gordon, when summing up his account of the formation of the several colonies, deserve consideration:—

"On the review of what you have read, you will note that the colonists were very early in declaring that they ought not to be taxed, but by their own general courts; and that they considered subjection to the acts of a parliament in which they had no representatives from themselves as a hardship; that, like true-born Englishmen, when grievously oppressed by governors or others, they resisted, deposed, and banished; and would not be quieted, till grievances complained of were redressed;

and that not a colony, Georgia excepted, *was settled at the expense of government.* Towards the settlement of the last, parliament granted £56,000 at three different periods."*

From this history, it is plain that the government could take no credit for any aid rendered, except in the case of Georgia: it meddled, however, at different times, with all of these colonies, and always mischievously. The inherent vigour of the people, however, and the spirit of independence, then strong among them, enabled them to overcome the difficulties of nature, and to withstand the evil influence of the government. The time at length arrived when there was no alternative between submitting to the constant supervision and unjust exactions of the English government, and resisting and throwing off its authority. The colonies took the great but dangerous resolution, and rebelled. Fortunately for themselves—fortunately for mankind—the government blundered as grossly when dealing with rebels, as when they sought to govern obedient subjects. The colonists achieved their independence, and in their turn afforded an example of a colonizing and mother country. To that example let us next apply ourselves.

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* Gordon, History of American Revolution, vol. i. p. 95.

CHAPTER III.

AMERICAN COLONIES—GENERAL DESCRIPTION—COMPARISON —BOUNDARIES OF THE UNITED STATES IN 1783 — BOUNDARIES IN 1849—AMERICAN SYSTEM—SOME RESULTS—POWER OF CONGRESS AS TO WASTE LANDS— TERRITORIES — STATES — AN ORDINANCE QUOTED — GENERAL CONCLUSIONS.

HAVING thus rapidly described the one scheme of colonization to which at the outset I alluded, I now proceed to the exposition of the second scheme, from which I wish to derive instruction.

This second scheme of colonization is that which the United States have adopted and acted upon, since they became an independent and sovereign people. The *colonies* which they have planted are the new states, which, since 1783, have been added to the union, and the territories which are now in progress towards that position.

These new states, though while in the condition of colonies (which they are while they continue TERRITORIES) they look to the United States as their metropolis, yet receive, as did the colonies, while subject to our sway, emigrants from other nations. The leading mind has, almost in every instance, been furnished by the New England States, the greater part, perhaps, of the population, by the British Isles.

The constitution of the United States contemplates distinctly, and provides for the colonization of the immense unpeopled wastes which belong to the nation called the United States; and contemplates not only the colonization of these wild regions, but also the change of the communities so formed, from the condition of colonies into that of sovereign states, and the reception of them into the great Federal Union, when they become integral portions of the great Empire, known to foreign powers as the United States of America.

So soon as the United States became in fact independent, and were so acknowledged by England in the year 1783, two great questions arose, which are intimately connected with our present subject. The one was, what were the boundaries of the several states? and the second, those having been determined, what was to be done with the immense territory which lay beyond the boundaries of the several states—territories which belonged to no one of them, but was the property of the political entity styled the United States.*

GENERAL DESCRIPTION AND COMPARISON.

The result of the determinations of the statesmen of the United States, and the comparison of that result with that brought about by the doings of English states-

* I am not required on the present occasion to enter into any description of the disputes which arose among the separate States on the subject of these wild lands, nor of the intricate questions to which the complication of state interests gave rise. Those disputes are hardly yet arranged, and constitute a part, and no inconsiderable or insignificant part, of the difficulties which lay in the way of congress, when forming their colonial systems—a difficulty which England has escaped hitherto.

men on the same continent, with respect precisely to the same matters, and within precisely the same period, constitute one of the most instructive, though to us the most humiliating parallels which our annals afford. If such another could be discovered, we might indeed tremble for the future destiny of England.*

A line drawn across the continent, from the Atlantic on the one side to the Pacific on the other—a line which for a large portion of the whole distance, takes the course of the great waters which form the chain of the great lakes, divides the whole of what may be termed North America into two parts; one of which—viz., the portion of the continent lying south of this line, belongs to the United States; while the other—viz., that lying to the north, is the property of England. The first or southern portion is certainly, in almost every particular, superior to the northern portion of this vast continent. The great advantages derived from this superiority of climate, soil, and means of communication, have undoubtedly much aided the American statesmen, and in no small degree contributed to the success which they have obtained in this mighty strife. Making, however, every allowance for the advantage conferred by the natural superiority of the territory itself, still there is much to be accounted for, which can only have resulted from the difference of the system adopted on the two sides of this long boundary line.

* I am not now speaking of what England achieved before 1783, butsince.—Leaving the consideration of our old colonies, as colonies, I now proceed to speak of British North America, as at present existing, and of our doings there since 1783, by way of contrast to the American colonies formed since the same year.

The northern shores of the great internal waters which find their outlet to the sea by means of the magnificent St. Lawrence, are for the most part equal to the southern shores of the same waters. The natural capabilities—the mineral wealth, for example—of the English territory have been as yet but imperfectly inquired into. Our rulers have been at no pains to learn what could be accomplished in those vast regions, yet wild and without inhabitants; so that no plan for the future settlement could be formed, and has indeed never been thought of, except, I believe, in one instance, which will hereafter be related. Still, we know thus much. The land is fertile,—is capable of maintaining an enormous population,—and fit to be the comfortable and happy home of many millions. It is nevertheless still, for the greater part, a howling wilderness. Since the year 1783, no new state or province has been formed. Canada, Nova Scotia, New Brunswick, Prince Edward's Island, lie north of the boundary. They existed in 1783. Since that year, the population has slowly increased; so slowly, indeed, that at this moment we have not two millions of people in the whole of the provinces which constitute what is called British North America.*

* I have lying before me an account of the population of all British North America in 1833. It is as follows:

Lower Canada	626,429
Upper Canada	322,005
Nova Scotia	154,400
New Brunswick	101,830
Cape Briton	31,800
Prince Edward's Island	32,676
Newfoundland	77,551
Total	1,346,691

Hudson's Bay is still a mere hunting ground; and no scheme of colonization in North America has ever yet been entertained by English statesmen, beyond the sending out a few thousand settlers, and placing them within a few miles of existing settlements. Canada has been divided and reunited, and for aught any one knows, may be again divided. For in our colonial legislation, "chance governs all." But no system exists which contemplates extension; no new communities or provinces have been created. The population, though thousands have gone out every year, has not increased at a rate much beyond what the natural rate of increase would have reached: and this strange, torpid, wretched condition of things exists actually in sight of another, which I will thus in a few words describe.

When the United States became independent, in 1783, the territories of Great Britain bounded them on the north; *the Mississippi was their western boundary;* and on the south, Florida hemmed them completely in. The Atlantic ran along their whole eastern frontier. Within this square, the whole of the United States' territories were then confined.* Their present boundaries are very different. Their northern, which is our southern boundary, runs now from the Atlantic, commencing at the south-eastern point of Nova Scotia, to the Pacific Ocean, where Cape Flattery forms the north-western point. The western boundary commences where the

* See the treaty of 1783, of peace with America, and that of 1763, of peace with France, for these boundaries. The free navigation of the Mississippi was, by the treaty of 1783, assured both to England and the United States for ever.

northern ends on the Pacific, at cape Flattery, and runs down along the whole coast, till it reaches the extreme southern point of New California. Starting from this point, the southern boundary runs towards the east across the continent, dividing the United States from Mexico, until the line reaches the Gulf of Mexico; it then runs along the whole coast of that gulf eastward, till it reaches the south-eastern point of Florida. And lastly, the eastern boundary, commencing where the southern ends, at the south-eastern point of Florida, runs northward along the whole Atlantic coast, till it reaches the south-eastern point of Nova Scotia, from which we originally started. Thus making, as before, a square, but one of dimensions enormously increased. These are the vast acquisitions of territory made by the United States since 1783. They are destined to extend still further.* These acquisitions have not been made, however, in order that they may be contemplated with an idle and complacent vanity by the citizens of the United States when looking at a map. All that an Englishman can do, when considering the possessions of his country in America, is to run his finger across the map, and say, "This is ours." If asked to what end it is ours, he can only answer, "God knows! What *may* be done with it no one can tell; all that we do really

* Of the manner of this acquisition I am not called upon by my subject to say a word. My concern at present is with the *result:* which is, what I have above described. One great purpose of this my present work, is the explanation of a scheme which will, if adopted, prevent all further acquisition by the U.S. *north* of their present boundary.

know is, that nothing, or next to nothing, has been done with it." Such, however, is not the sort of account which an American can render of the conduct of American statesmen.

He would say—"Look you, at our north-eastern frontier—behold our citizens have multiplied, and step by step have advanced till they have reached your boundary. The states of Vermont and Maine are there with their hardy and industrious population—a fine race of intelligent farmers, who have proved that the disadvantages of a cold climate and a soil by no means fertile, may yet be overcome by industry and courage:—and that a powerful and a happy community may be formed under auspices far less favourable than those which attend the Canadas, more especially Upper Canada." Keeping his finger still in the northern boundary, he comes to the St. Lawrence, and running along that beautiful river, he shows you the whole shore from the point at which the boundary line first strikes the St. Lawrence, up to Lake Ontario, dotted with thriving towns and villages. Carrying his finger still onwards, still westward, he shows you the growing communities along the lakes Ontario, Erie, Michigan, Huron. He now spreads out his hand, and sweeping it down to the south, he says as it passes over the map, "this is the broad basin of the Mississippi, teeming now with life—the busy hum of civilized men—look you, here is Iowa, just made a state. Here is also Wisconsin, a yet younger state. Here is Ohio, now the fourth, if not indeed the third state of the Union; which, when Washington was a soldier in the English army, was a

wilderness, and the scene of a defeat of an English force, by the French from Canada aided by a band of savages. Now I come to Kentucky, Indiana, Illinois, &c., more states than I need now enumerate. Here, on the *west* of the Mississippi, is the State of Missouri—on land which did not belong to us, till years after we ceased to be your subjects. Now come Alabama, Tenessee, Louisiana, &c., and there away to the west is Texas—and still away, away till you reach the great Pacific, you must stretch your eyes of the body, and the mind's eye, till you come to California, with its gold-bearing soil, and its quicksilver mines. "These," he might say, "these are our colonies."

Without allowing you time to pause and take breath, he says—"When you drove us into rebellion we hardly amounted to three millions of souls—we now surpass seventeen millions. We were then thirteen states, we are now thirty.* We had then no settlement west of the Mississippi and no state west of the Alleghanies. We are now filling the valley of the great father of waters from his source to the sea—and our adventurous people are following the Missouri to its source, and planning routes across the Rocky Mountains—establishing settlements on the Columbia, where it reaches the Pacific—and will soon fill the beautiful Californian peninsula with American citizens." He might then place the following table before you, saying, "before a

* At this moment I believe the number may be greater by two or three. Every day calls some new community into existence. What territories exist I am at this moment unable to say. Oregon is probably a state.

year passes away some additions will require to be made."

THE THIRTEEN ORIGINAL STATES.	THE STATES ADDED SINCE 1783.
1. Virginia.	14. Ohio.
2. Maryland.	15. Kentucky.
3. Massachusetts.	16. Indiana.
4. Connecticut.	17. Illinois.
5. Rhode Island.	18. Missouri.
6. New Hampshire.	19. Alabama.
7. New York.	20. Tennessee.
8. Delaware.	21. Louisiana.
9. Pennsylvania.	22. Mississippi.
10. North Carolina.	23. Maine.
11. South Carolina.	24. Michigan.
12. New Jersey.	25. Arkansas.
13. Georgia.	26. Florida.
	27. Vermont.
	28. Iowa.
	29. Texas.
	30. Wisconsin.
	31. Oregon Territory.

Columbia.*

* The census of the United States is taken every ten years—and since 1790 has been as follows :—

1790	3,939,827
1800	5,305,940
1810	7,239,814
1820	9,638,191
1830	12,866,020
1840	17,068,666

An official table in the year 1846 makes this statement:—"The last census was made in 1840. Adding an increase of three per cent. each year (based upon the average increase of previous years) the total population in 1846 is estimated at about 20,000,000 exclusive of Texas, of which no census has been taken."

Herein he would observe I have not put Texas, neither have adverted to the rising territories. But the seventeen states here named have been added in a period of sixty-six years. Within that same period our numbers have risen from three to above twenty millions—and the extent of our territory has been quadrupled.

A statement of this nature begets serious reflexion. And we are led to inquire, by what machinery, by what favouring circumstances such a result has been brought about.

The people, be it remarked, are the same as ourselves—the original thirteen states were the work of Englishmen. English heads, and English hearts, and English hands brought those new communities into existence. No longer connected by government with us, they, nevertheless, retained the characteristics of the race from which they sprang, and, proceeding in the great work to which they were destined, they strode across the Continent, the fairest portions of which they could now call their own. In planting new settlements, they were aided by our own people—the very elements out of which we endeavour to frame colonies, and with which we do produce sickly miserable communities, that can only be said to exist and to linger on in a sort of half life, without the spirit of a young, or the amenities and polish of an old community; and above all, without any spirit of independence. They are eternally looking for aid from others, and not from themselves. The great object of their only hope is to escape from the country of their adoption, and their only notion of distinction is to be an Englishman and not a colonist. If

they are in power, they domineer over and insult the colony and the colonist; if they are not of the favoured few to whom power is confided, they truckle, and fawn, and cringe, in the hope of some day obtaining the means of tyrannizing in their turn.

Such are the different results from precisely the same elements. From the same materials one architect has raised a plain bold, broad, foundation, magnificent in conception, and in its execution simple and secure. The other has built, only that what he rears up to-day may fall to pieces to-morrow—he has worked without a plan —building a little here one day—a small piece a mile away the next; nothing advances, money is spent, good materials are spoiled, time is irrevocably lost; disgust and discontent attend his blundering, his blustering, boasting, and ignorance. This is the accurate but painful description of the two systems. These are the results of the English and the American systems of colonization.

But what is the American system? Have they a colonial officer? have they a secretary of state for the colonies! have they colonial governors, colonial judges, colonial secretaries, and attorneys-general and collectors? Indeed, they have none of these things, but they have that which is worth them all—they have a system of procedure well adapted for the end in view; and they have a government responsible to those who are the persons really interested in the proper performance of the duties which the government is required to fulfil.

If the reader will take in his hand any common map of North America, he will see there laid down, Lake Ontario, with the Niagara river, and Lake Erie; then he

will see a river joining Lake Erie to Lake Huron, and also he will see Lake Huron itself. The tract of land which lies to the north of these waters belongs to England, and forms a portion of what was formerly Upper, but is now called West Canada. The tract itself is in all respects equal to the corresponding tract which lies on the American side of the waters I have named, and is in fact among the most beautiful portions of territory upon the whole continent. The reader will perceive that the most southern part of the whole tract of water to which his attention has been solicited, forms the northern boundary of the state of Ohio. This state did not exist in the year 1783. It is now the third state of the union. Its population amounted at the last census to 1,519,467, and it now sends nineteen* members to congress as members of the House of Representatives. No traveller in the United States fails to express his astonishment at the rapid progress of this state—and the beautiful towns and villages which now exist, and are daily rising in every part of it. But let us remember that in nothing is Ohio naturally more favoured than the tract of Canadian territory which lies north of Erie and opposite to Ohio. In order hereafter to come to some specific results, I will now describe the steps by which Ohio gradually but rapidly passed from its state of wilderness to its present condition, which thus excites the wonder and admiration of every beholder. This contrast between the two districts is remarkable,

* This number, however, was regulated by the census of 1830, which gave as the population at that time 937,903. The number of the representatives *may*, therefore, be now greater.

because their natural condition was so wonderfully similar. I simply take the state of Ohio, in order to be able to point out the steps of the American procedure. Here is no pretence of making an accurate statistical statement, or of writing a history of Ohio. An instance and a name were wanted for illustration—and a name saves circumlocution.

"Although the claims of Virginia to the country north-west of the Ohio were thus gaining strength (this was in 1779) from the rights of conquest, in addition to those derived from her original charter, they were not suffered to pass undisputed by some of the other States, who insisted that all the lands, the title of which had originally been in the crown, and had never been alienated, were the common property of the confederation, by the right of conquest, inasmuch as the revolution had transferred the supreme power from the British sovereign to the United Republic. This ground was supported with great earnestness and ingenuity on their part, and was warmly resisted by Virginia in a spirited remonstrance to Congress in the October session of 1779. But this delicate question was happily settled by a voluntary cession from Virginia to the United States of the country in dispute, on certain conditions; and the territory thus ceded comprehends the three flourishing states of Ohio, Indiana, and Illinois, which already contain more than thrice as many white inhabitants as are in the state which ceded them."*

* Life of Jefferson, by Tucker. vol. i. p. 142. This statement in the text was made in 1836. The startling effects produced by political institutions are instructively illustrated by a comparison

Certain adventurous persons, "the pioneers" of civilization, wishing to make new settlements beyond the boundaries of Virginia, and Pennsylvania, upon wild lands belonging to the United States, made formal application to the government of the United States of Washington, who, being bound to afford all possible facility, thereupon take steps to have the lands surveyed and properly laid out into counties, townships, parishes. The roads are also indicated, and at once the law exists: and security, guaranteed by the authority of the United States, immediately follows, both for person and property; and all the machinery known to the common law, and needed for the maintenance of this security, and the enforcement of the law's decrees, is at once adopted.—A municipal authority comes into existence; a court house—a jail—a school room—arise in the wilderness; and although these buildings be humble, and the men who exercise authority in them may appear in some degree rude, yet is the law there in all its useful majesty. To it a reverent obedience is rendered; and the plain magistrate who, in a hunter's frock, may, in the name of the United States, pronounce the law's decree, commands an obedience as complete and sincere as that which is paid to the Chief Justice of the Supreme Court at Wash-

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of Ohio and Upper Canada on the one hand, and Ohio and Kentucky on the other. Kentucky is the older state of the two: her lands are quite as fertile, and climate the same as Ohio, yet slavery being in Kentucky, the effect appears by the population, which is as compared below:—

	Whites.	Slaves.	Total.
Kentucky . .	597,870	182,258	779,828
Ohio . . .	1,519,464	3	1,519,467!!

ington, or to the ermined judge who presides in the courts of our Lady the Queen, in Westminster Hall.

The people are accustomed to self-government, and the orderly arrangements of society are adopted by them as mere matters of course. If a township is marked out on the map, and inhabitants, having purchased the lands, go and live therein, an organization by mere operation of law exists in the township. Magistrates and officers have to be chosen—and are chosen, and society starts at once, like a well made watch the moment it is put together and wound up. The fact of the inhabitants, and that of the township, being given, all the rest follows of course, without any aid or direction of any body but the people themselves.

The wild lands of the United States were increased by various means, and from various causes, immediately upon the States becoming a nation: and congress, under the Constitution, having power to deal with these lands, proceeded so to do. The fourth clause of the fourth article of the Constitution declares, that "new states may be admitted by the congress into this Union. But no new state shall be formed or created within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress." "Under this clause, besides Vermont, three new states formed within the boundaries of the old States—viz., Kentucky, Tennessee, and Maine—and nine others—viz., Ohio, Indiana, Illinois, Mississippi, Alabama, Louisiana, Missouri, Arkansas, and Michigan, formed within the territories ceded to the

United States, have been already admitted into the Union."

"By the second clause of the same section, it is determined that 'Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property belonging to the United States. And nothing in this constitution shall be so construed as to prejudice the claims of the United States, or of any particular State.' . . . At the time of the adoption of the constitution, the general government had acquired the vast region included in the North-western Territory; and its acquisitions have since been greatly enlarged by the purchase of Louisiana and Florida. The two latter Territories of Louisiana and Florida, subject to the treaty stipulations under which they were acquired, are of course under the general regulation of Congress, so far as the power has not been, or may not be, parted with by erecting them into States. The North-west Territory has been peopled under the admirable ordinance of the Continental Congress of the 13th of July, 1787, which we owe to the wise forecast and political wisdom of a man whom New England can never fail to reverence."*

This ordinance I now here give entire, in order to show the mode adopted by the United States, when preparing for colonizing a large tract of country. This is really a specimen of a systematic colonization; and is the

* These extracts are made from an exposition of the American Constitution by Dr. Story. An excellent work in itself, but remarkable as an indication of what in America is thought necessary for the education of youth in schools; this being a school book. See p. 139.

more remarkable, because it is really the first instance on record of a government providing for the gradual creation of many independent nations by a carefully-considered and regular system; a system which we must imitate, if we desire to produce any great effect as a colonizing power. We have immense territories, and an expensive and meddling Colonial Office; but a system we do not possess. This ordinance will give some idea of that Act of Parliament upon which, in the course of this work, I shall have so often to insist, and without which no regular plan of colonization can be attempted.

AN ORDINANCE

For the Government of the Territory of the United States, north-west of the River Ohio.

BE it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a

deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force, until altered by the Legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be, (being of full age,) and attested by three witnesses: and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers, shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincent's, and the neighbouring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed, from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress: he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed, from time to time, by Congress, a secretary, whose commission shall continue in force for

four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the Legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the secretary of Congress: There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time; which laws shall be in force in the district until the organization of the General Assembly therein, unless disapproved by Congress; but afterwards the Legislature shall have authority to alter them as they shall think fit.

The governor for the time being shall be commander-in-chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the General Assembly, the governor shall appoint such magistrates, and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order of the same. After the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly; but all magistrates and other civil officers, not herein otherwise

directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may be thereafter made by the legislature.

So soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the General Assembly: Provided that, for every five hundred free male inhabitants, there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the legislature: Provided that no person be eligible or qualified to act as representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: Provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives, thus elected, shall serve for the term of two years; and in case of the death of a representative,

or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

The General Assembly, or Legislature, shall consist of the Governor, Legislative Council, and a House of Representatives. The Legislative Council shall consist of five members, to continne in office five years, unless sooner removed by Congress, any three of whom to be a quorum; and the members of the Council shall be nominated and appointed in the following manner—to wit, as soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together; and when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the Council, by death, or removal from office, the House of Representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of Council, the said House shall nominate ten persons qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the Council five years, unless sooner removed. And the Governor, Legislative Council and House of Representatives, shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the House, and by a majority in the Council, shall be referred to the governor for his assent; but no bill or legislative act whatever shall be of any force

without his assent. The governor shall have power to convene, prorogue, and dissolve the General Assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity and of office; the governor before the president of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the Council and House assembled in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected, to fix and establish those principles as the basis of all laws, constitutions, and governments which for ever hereafter shall be formed in the said territory: to provide, also, for the establishment of states and permanent government therein, and for their admission to a share in the Federal Councils on an equal footing with the original states, at as early periods as may be consistent with the general interest:

It is hereby ordained and declared by the authority aforesaid that the following articles shall be considered as articles of compact, between the original states and the people and states in the said territory, and for ever remain unalterable; unless by common consent, to wit:—

Art. 1. No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in the said territory.

Art. 2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of Habeas Corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings accord-

ing to the course of the common law. All persons shall be bailable, unless for capital offences where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishment shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary for the common preservation to take any person's property, or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any way whatever, interfere with or affect private contracts or engagements, *bonâ fide*, and without fraud previously formed.

Art. 3. Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be for ever encouraged. The utmost good faith shall always be observed towards the Indians: their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made for preventing wrongs being done to them, and for preserving peace and friendship with them.

Art. 4. The said territory, and the states which may be formed therein, shall for ever remain a part of this Confederacy of the United States of America, subject to the articles of confederation and to such alterations therein as shall be constitutionally made, and to all the acts and ordinances of the United States in congress assembled, conformably thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted, or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress, according to

the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new states, as in the original states, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new states, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and for ever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the Confederacy, without any tax, impost, or duty therefor.

Art. 5. There shall be formed in the said territory not less than three nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follow—to wit, the western state in the said territory shall be bounded by the Mississippi, the Ohio, and Wabash Waters; a direct line drawn from the Wabash and Port Vincents, due north, to the territorial line between the United States and Canada, and by the said territorial line to the lake of the Woods and Mississippi. The middle states shall be bounded by the direct line, the Wabash, from Port Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Penn-

sylvania, and the said territorial line, provided however, and it is further understood and declared, that the boundaries of these three states shall be subject so far to be altered, that if Congress shall hereafter find it expedient they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line, drawn through the southerly bend or extreme of lake Michigan. And whenever any of the states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates into the Congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government, provided the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

Art. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted; provided always, that any person escaping into the same, from whom labour or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labour or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23rd April, 1784, relative to the subject of this ordinance, be, and the same are hereby repealed and declared null and void.

Done, &c. &c.

"Such," says Mr. Story, "is this most important ordinance, the effects of which upon the destinies of the country have already been abundantly demonstrated in the territory by an almost unexampled prosperity and rapidity of population, by the formation of republican governments, and by an enlightened system of jurisprudence. Already five states comprising a part of that territory have been admitted into the union, and others are fast advancing towards the same grade of political dignity."* The five states are—

Ohio, with a population, in 1840, of		.....	1,519,464
Indiana	„	„	685,863
Michigan	„	„	212,267
Illinois	„	„	475,862
Iowa	„	„	

Wisconsin added since.

It will be seen that there are two stages in the system adopted by America: the wild land becomes first a territory, and afterwards is admitted into the Union as a state. Two Acts of Congress are placed in the Appendix, for the purpose of giving a complete idea of the difference of their two conditions of political existence. The one act provides for the government of the territory of Oregon; the other, for the admission of Wisconsin to the Union.

What, then, are the general conclusions which this twofold history, brief as it has been, compels us to draw? In my opinion, the canons which it establishes respecting colonization are these:—

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* Story's Exposition, p. 141.

1. Any supervising power retained, and to be exercised with respect to a colony, should be retained entirely in the hands of the imperial government alone. No part of it should be entrusted to a company, or to a single proprietor. A company may be made useful as a means of collecting many minute portions of capital into one large and effective mass, and may be permitted, by the aid simply of the advantages which that combined wealth confers, to act as private persons, and in that capacity to promote the plantation of the new settlement. But to the company there should be confided no government powers, no mercantile monopoly or privileges. Such facilities as a joint-stock company requires to avoid mere legal obstructions, may be granted to a company wishing to carry on commerce, or effect any legitimate purpose of gain, but not one atom of political power. I will not clog this assertion with one particle of exception; the rule ought to be as I have laid it down, stringent and universal in its negation.

That which is true as respects a company, is just as true and as necessary in the case of an individual, no matter what may be his wealth, no matter what may be his virtue. Were Lord Baltimore, with all his real wisdom and goodness, his unostentatious and thoroughly modest and tolerant spirit, to appear again, and with the same benevolent aims and sanguine hopes, ask for the privileges which his family enjoyed in Maryland, and so worthily employed, he would meet from me with the same peremptory refusal that I should give to a grasping, mere money-getting company. The powers of government must not be delegated. If they are to

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be in any hands, those hands must be of the government itself. To none others ought such powers to be confided.

2. Having determined that the supervision should never be delegated to a company or an individual, but should always be reserved by the government, the next canon commands us to reduce this supervision as much as is possible, retaining only what is needed to maintain our metropolitan rule, and to confide to the colony the government of its own affairs. The more completely this is done, the more certain and marked will be the prosperity of the colony.

3. The next rule is, that, certain extraordinary cases being excepted, the metropolitan government should confine its office to *attracting* settlers to a colony, and ought not to occupy itself in actually carrying them out, and thereby take part in the active business of *planting* the settlement. The duty of the government is to create those facilities on the spot to be settled which, being known to exist, will of themselves bring the population. The manner of doing this I shall soon attempt to describe.

4. The next rule which I think my short history justifies, is, to insist upon the colony being self-supporting, in everything except defence against hostile aggression. It is the duty of England to say to all of her subjects that plant settlements within her colonial territories, "I will defend you in the quiet possession of your homes, and of the produce of your labour. No enemy shall attack you from without. But this perfect defence being afforded—and that it be afforded, the

government must provide—you must yourselves be the architects of your own fortunes. My government has made the way clear for you in the first instance: there are the limits of the colony; make yourselves a community; sustain yourselves, and govern yourselves. Trade with other nations, with all whom you wish, that you may; fight with other nations or yourselves, that you shall not. Such is my will, and to it I shall enforce obedience."

These general rules, or conclusions, I shall now proceed to enlarge into something like a system. The description I am about to attempt is what might well precede a specific act of legislation, which would make law of what is here only suggestion. All my observations in this work, those which I have already made, those which I am about to make, point directly to an act of parliament, which I believe the necessary preliminary to any rational system. Our brethren on the other side of the Atlantic have adopted, as we have seen, this prudent course; and her colonies exhibit fairly the result of this wise act of legislation by Congress. They have had great difficulties to overcome—far greater than any which lie in our path as legislators. Those difficulties they have not feared to face; having faced, they have conquered them. Their seventeen or eighteen colonies, with their millions of thriving people, attest the practical wisdom of this conduct, and afford us an admirable reason for imitating and surpassing it. That we have the means of surpassing all that America has done or can do, I shall now attempt to prove. She may, indeed, create one gigantic nation; that it should

be and remain only one, will be their greatest triumph. But we, if we be wise, and use the advantages which as a people we possess, (a tithe of which no other people ever enjoyed)—we, I say, may create *many* vast nations —nations which must be separate, and may be of almost fabulous greatness. Let not the reader call me a dreamer, till he has read the very unpretending scheme which I now proceed to explain; and which I believe would produce the great effects I describe, because it is unpretending, easy to be understood, and, if once put into motion, self-supporting.

There are two things which always present themselves to the mind of an emigrant, or one thinking of becoming an emigrant, and are always placed by him among the circumstances which are deemed to be reasons against expatriation: the one is the *uncertainty* that attends every step of his progress; the other is, the *inferiority* of the position which, as a colonist, he is to occupy.

When I speak here of *uncertainty*, I do not mean that uncertainty which attends, and ever must attend, an ignorant man; but I intend by it, that which every man, even the most instructed, must labour under, who endeavours to ascertain the various steps necessary to be taken by those who desire to become settlers in any of our colonies, and who endeavours also to discover the probable consequences to himself and his family of the acts which he is about to perform in the character of an emigrant. Let any one attempt to form for himself a conception of what would probably occur if he were to associate himself with a body of settlers, just about to emigrate, for the purpose of taking possession of a tract

of land purchased of the New Zealand Company.* Let us suppose that a band of friends have said to one another, "We will buy from the company a tract of land; we will together expatriate, and make on that land a new home for ourselves and our children." The land is bought,—it is some distance from any existing settlement,—and when they reach the chosen spot, in what condition will they be? I do not mean what condition as to material, but as to social things. Friends though these men and their families may be, yet they cannot, as they are not angels, but merely men and women, live without law—without some rule, some order. Well, but where are they to learn what this rule or order is? Where are they to learn if there really be any rule? The fact is, that nowhere can they find it. Law will grow up in their new settlement, after the fashion in which it grew up among our savage ancestors—by degrees, and be brought into existence, and reduced to shape, by necessity. At once this little band of adventurers will step out of light into darkness, out of the dominion of regularity and reason, into the domain of anarchy and chance. They do not simply leave a well-cultivated country, in which art and labour have conquered the powers of nature for man's service, and go thence to an uncultivated land, whose powers, though not yet brought under command, are in the vigour of youth: they do much more than this; for they go into a lawless, as well as a wild waste. The

* This Company has resumed its land sales, after years of most unnecessary, most unjust delay, created for it by the mischievous—gratuitously mischievous—opposition of the Colonial Office.

forms and the spirit of social life have disappeared from their eyes, and are only to be recalled after much difficulty, and often much distress, and not seldom of crime also. The real mischief of this condition of things, however, is not the circumstance to which I wish at this moment to draw attention, but to the effect of it, in the shape of *uncertainty* and doubt, upon the mind of the emigrant; particularly upon the mind of an emigrant with a wife and children, and some of those children daughters. He will, he must, shrink from braving the difficulties which he perceives before him. The rude and the reckless will feel least hesitation; but the rude and reckless are not the best elements for the formation of a new community. Industry is indeed needed, but industry in conjunction with thrift and order, gentle manners and intelligence. The colony that does not begin with these will advance but slowly. You do not desire to impose on yourself the double task of rescuing your colonists, as well as your colony, from a rude, uncultivated condition. But your wish is to plant at once a civilized community upon a virgin soil; and you ought to make your emigrant population feel that such is the task they will be called upon to perform; that by changing the spot in which their life is to be passed, they have not changed that life itself; that they are not required to create civilization, but simply to cultivate an untouched soil; and that with themselves, they have taken out a polity to which they have always been accustomed; and that while they acquire the advantage of a fresh and fertile soil, they do not lose the inestimable benefit of civility, and of its ever necessary precursor

and attendant, security. The only way of creating this general understanding, and thereby really performing the part which a wise and provident government can and should perform, is to make and publish a predetermined rule for the state of things which the planters of a new colony must encounter. The law should be like the atmosphere, and attend them wheresoever they may go; and they should feel that it does follow and surround them. And when the little band that I have supposed first find themselves standing upon their newly-acquired territory, they should know its boundaries, its name, the parish in which it is placed, the township to which it belongs, the county of which it forms a part. With a map in one hand, and an Act of Parliament in the other, they ought to feel themselves at once, though in a new country, still surrounded by all that of old produced for them order and security,—still, as formerly, possessed of powers and rights, and subject to duties and obligations, defined, clear, and known, or easily to be ascertained. Every step taken by them should have been taken in security, in peace, and with ease: and now the new community is born, its pulse begins to beat; life, and civilized life, is there.

Let that portion of our people who are wishing and destined to be emigrants know that such is to be their future lot, and the government will find no difficulty in procuring a people for its successive colonies.

Thus having by the formation of a rule removed uncertainty, next let it be the object of the mother country to make her people feel themselves not abased by becom-

ing colonists. The character of a people is always determined by that of the educated classes, and individuals belonging to them. The mass of the population must always be destined to win their daily bread by daily toil. They may pass a quiet and happy life, but it must be in a certain sense monotonous and obscure. Beyond the narrow horizon of their ordinary hopes, they seek not to look. Their desires are limited to a wish for the means of comfortable subsistence, which they only hope or desire to attain by steady toil, and which they hope also may be the happy and quiet lot of their children after them. But the educated man, and they who are above the pains and anxieties of absolute want, and the fear of want, are rendered happy or miserable by hope. If they may hope to win renown, gain power for themselves—if a career by which these may be achieved lies before them, they will as a class be content, and love the country which affords this field for their ambition. But there is yet something wanting;—this class of man desires to derive honour from his country. As he and his generations derive advantage from the wealth which preceding generations have stored up, and left in various shapes to posterity; so all men desire to enjoy the benefit derived from the glory, and great deeds achieved, stored up, and left in many shapes, by their predecessors, to be the estate of renown for generations yet to come, who bear the same name and will be the same people. In a petty colony there is really no such career, and the hallucination by which sometimes minute and utterly insignificant dots of land, and handfuls of men, are led to think

themselves important, and assume airs of consequence and grandeur, has long been a subject of ridicule and contempt. In such circumstances of real insignificance, to revel in ideas of fancied greatness is a folly of which no sane and sensible person can be guilty. The intelligent members of such a community are therefore discontented with their position, and curse the fate which has thus condemned them to hopeless inferiority. Generally speaking, such is the usual lot of a colonial gentry—and if as colonists they have no hope of escaping from it, the educated classes of colonists will bend their eyes towards the future, which is to bring them independence, and open to them the path of renown and power. The career that lies before two men, one of whom has been born and lives upon the southern shore of the St. Lawrence, and the other on the north of that river, is a striking example of the observation here made. The one is a citizen of the United States, the other a subject of England, a Canadian colonist. The one has a country which he can call his own; a great country, already distinguished in arms, in arts, and in some degree in literature. In his country's honour and fame the American has a share, and he enters upon his career of life with lofty aspirations, hoping to achieve fame himself in some of the many paths to renown which his country offers. She has a senate, an army, a navy, a bar, many powerful and wealthy churches; her men of science, her physicians, philosophers, are all a national brotherhood, giving and receiving distinction. How galling to the poor colonist, is the contrast to this, which his inglorious career affords. *He* has no country—the place where he was born, and

where he is to linger out his life, unknown to fame, has no history — no past glory, no present renown. What there is of note is England's? Canada is not a nation—she is—*a colony*—a tiny sphere, the satellite of a mighty star, in whose brightness she is lost. Canada has no navy, no army, no literature, no brotherhood of science. If, then, a Canadian looks for honour in any of these various fields, he must seek it as an Englishman; he must forget and desert his country, before he can be known to fame. We must not then wonder if we find every intelligent and ambitious Canadian with a feeling of bitterness in his heart — because of his own inferiority of condition. Few will own to entertaining this feeling if they be prudent, even to friends; some, indeed, contrive to hide it from themselves; nevertheless, there it is—and must be, so long as his country remains a colony. But by care the painful part of this condition may be greatly diminished, if not entirely taken away, and what little remains may be, perhaps, more than compensated by the benefits which the colony may derive from England, by whose friendly aid and honourable kindness she may be enabled to hold a higher position among nations, than she could do, were she entirely independent. The first step to take in every case, in order to reach this end, is to make the colony the manager of its own concerns; the next is to increase these concerns in variety and extent, so that they may become important, not only to the colonist, but to the nations of the earth. The plan which I am now about to lay before the reader, has these ends especially in view. I seek to frame a polity

which contemplates the colony in its commencement—in its infancy—and onward in its course, till it becomes an established and self-governing community; my polity then seeks to unite this self-governing state with others, having the same interests, and living under the same laws and according to the same rule of government. Thus my plan proceeds preparing for a continually increasing power and importance—providing a secure and comfortable subsistence for the humble millions who constitute the large majority of the people—and opening a career of honourable ambition for the more aspiring leaders, by whom the people will be guided, ruled, and led.

CHAPTER IV.

WITH these remarkable examples before our eyes, there is no great difficulty in framing a plan for the effective management of our Colonial possessions.

Three of the SYSTEMS above mentioned—viz.,

1 That of British North America,
2 That of Australasia,
3 That of South Africa,

are in themselves so vast, as to require to be separated into many distinct PROVINCES; and the separate provinces of each system may be united into one federal union.

New Zealand is not so extensive as to require such separation; it ought to be one province. But as such PROVINCE it will need the organization which is required in the cases of the separate PROVINCES of the SYSTEMS above mentioned, and will, therefore, in the following statements, be so far a subject of consideration.

My plan will, therefore, directly relate to the four separate portions of our Colonial possessions here named —viz.:

1 British North America.
2 Australasia.
3 South Africa.
4 New Zealand.

SECTION I.

GENERAL VIEW—PLAN—NOMENCLATURE—SETTLEMENT—PROVINCE—SYSTEM.

As I do not intend to adopt the nomenclature employed by the United States, I shall make one for my purpose, and explain the terms as I proceed.

Every colony ought to go through two stages of political existence.

It ought to be first in a condition similar to that of a TERRITORY, as contemplated in the system of the United States, in which condition or stage of its political existence I shall call it a SETTLEMENT.

Its second stage of political existence ought to be similar to that of a STATE in the system of the United States, and in this second stage or condition I shall call it a PROVINCE.

When certain PROVINCES are grouped together—united for certain federal purposes—each group or federation I call a SYSTEM.*

The first step with respect to the formation of a

* This term is employed by modern astronomers very much in this sense with respect to groups of stars and constellations.—*See* Nichol's Architecture of the Heavens. I am by no means wedded to this my nomenclature. Some words were needed for the purpose I had in view: The above have been chosen not because they are the best, but because they are sufficient. If any small wit feels at all inclined to assail them, all I ask is, that he will replace them by some others, and adhere steadily to those he selects.

colony should be a survey—a survey not merely to determine the boundaries of private property, but with reference to its political existence and government.

Territorial divisions are necessary for the purposes of government, and the same system of division should be adopted throughout.

The first point is to determine the BOUNDARIES of the colony itself.

The next is then to divide the colony—that is, the lands contained within the determined boundaries—into COUNTIES.

Then the counties should be laid out into TOWNSHIPS.

And lastly, the townships should be divided into PARISHES.

For the purposes of deciding upon the rights of property, each parish should be divided into LOTS, and sold by authority. This would enable a perfect registration of landed property to be at once established, and thus most materially contribute to economy and justice in all judicial decisions on civil rights, resulting from or connected with the land.

With respect to British North America, Australasia, and South Africa, immediate steps should be taken to determine the boundaries of the existing SETTLEMENTS and PROVINCES, which have been formed in these three systems.

All the lands which lie beyond the boundaries of these SETTLEMENTS and PROVINCES I shall for the moment consider vested in the Crown, and all the unappropriated lands lying *within* the boundaries of these settlements and provinces as belonging to the governments respec-

tively of each of them, subject to certain conditions, to be hereafter described and explained.

We have now, then, spoken of colonies as to be considered and provided for as SETTLEMENTS, PROVINCES, and SYSTEMS. The two last conditions are permanent, that of a SETTLEMENT is a state or condition of transition.

SECTION II.

SETTLEMENT—MODE OF ESTABLISHING—SURVEY—FIRST SALE OF LAND—GOVERNMENT—EXTENT OF INTERFERENCE BY THE MOTHER-COUNTRY—COLONY SELF-SUSTAINING—MEANS, LAND, ETC.—THE MONEY OF THE COLONY HOW DEALT WITH—CENSUS—WHEN SETTLEMENT BECOMES A PROVINCE—FRAME OF THE GOVERNMENT—POWERS OF—JUDICATURE—DIGRESSION CONCERNING LAND FUND.

The earliest condition of the colony is that of a SETTLEMENT. It is that in which it receives the greatest aid from the mother-country, and during which it is most subject to her direct authority—her immediate interference. All interference, however, is not of the same description. The mother-country may interfere by means of the executive—that is, of the administration who act by the Secretary of State for the Colonies in the name of the Crown—or she may exercise her authority through parliament. Theoretically, the last mode of interference can be subjected to no rule—parliament is omnipotent in theory, and may do what it pleases—but such is not, either in fact or in theory, the case with the Colonial Secretary, acting for the Crown. His interference ought in all instances to be according

to a predetermined rule, and if he be given any discretionary authority, the limits of that discretion ought to be carefully settled, and definitely stated.

Hitherto the interference on the part of the Crown, though directed according to some vague notion of law, has been without any system—and has been in no two cases alike. The earlier colonies were all settled in consequence of certain powers conferred by the Crown in the form of a charter. These charters of the Crown were sometimes very rational, and judicious delegations of power—and liberal and wise grants of territory—on other occasions they seemed rather the results of some disordered dream, than the sober dictates of royal reason. For example, what has been termed "the most ancient American state paper of England,"* was a patent or charter granted by Henry VII. to John Cabot," empowering Cabot himself and his three sons or either of them, their heirs or their deputies, to sail into the eastern, western or northern sea, with a fleet of five ships at their own proper expense and charges; to search for islands, countries, provinces, or regions hitherto unseen by Christian people; to affix the banners of England on any city, island, or continent, that they might find; and as vassals of the English Crown, to possess and occupy the territories discovered." * * * The exclusive right of frequenting all the countries that might be found was reserved unconditionally and without limit of time "to the family of the Cabots and their

* Bancroft, History of the United States of America, vol. i. p. 9, and note 1.

assigns." A wilder document could hardly have been devised, had the author been the narrator of the stories of The Thousand and One Nights, and not of the grave and astute Henry VII. If, however, we look at the charter granted to Rhode Island by Charles II., or rather by Lord Clarendon in his name, we shall find a constitution established, which Rhode Island retained almost unaltered when she became an independent state. Such were the wide oscillations of the royal will. But in the present times such vagaries are not likely to occur—though there has been as yet no approach to anything like a system, or rule.* The fact being that the persons who have exercised power, whether open and avowed, or hidden and circuitous, have never looked upon the subject with any view or purpose of establishing a rule for the continued guidance of colonial ministers in the great and noble duty of increasing indefinitely the colonial dominion of England. What we need, however, is a rule. We want an authorized explanation of the steps necessary to be taken by those who propose to lay the foundations of a new colony—we need also an Act of Parliament which, contemplating men laying such foundations, shall before-hand determine accurately what laws, and what authority, shall at once, upon the formal declaration of the boundaries of a new colony, obtain, and have power within those limits. Such an act we want, for without it, there is no hope of escaping from

* If we are to judge by some late doings of our Colonial Office, I fear we must allow that the days of vagaries have not entirely passed away. New Zealand has been a favourite field for the freaks of Colonial Secretaries of State.

our present wretched, lame, and mischievous condition of irresponsibility, ignorance, and jobbing.

For the purpose of illustrating my meaning and establishing, as accurately as I can, the principles which ought in my opinion to preside over these proceedings, I will suppose a case, and lay the scene in Australasia.

Very lately a company, composed of persons of the highest respectability and intelligence, obtained an immense tract of land north of Sydney, and they are endeavouring to the best of their ability to form a new colony, in the hope (a very legitimate hope) of giving a value to their land, by making a new and flourishing community. Now, instead of this imperfect mode of proceeding, my plan would have been as follows:—

These gentlemen being desirous of planting a new colony, would have applied, according to a set form, to the Colonial Minister in England.* The minister determines to permit the planting of this new colony. But I in my plan assume, that the boundaries of the SETTLEMENT† of SYDNEY have been ascertained, and that Sydney is in the transition state of a SETTLEMENT, but proceeding

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* As we advance in the exposition of the whole of my scheme, this first application will receive important modifications.

† Why this colony is here called a settlement and not a province, will hereafter appear. And I introduce here a mention of Sydney for two reasons: 1st The land given or sold to the company above mentioned lies north of, and conterminous with, Sydney, and therefore the question of boundary between the new colony and Sydney will arise; and 2nd, I desire to explain the mode in which such a question of boundary in all cases would be provided for. Sydney under my plan would long since have been a PROVINCE.

rapidly to the condition of a PROVINCE. The minister, that is, the Secretary of State, having so determined, he, according to the provisions of the general act, which I assume to have been passed, gives notice in the Gazette, "that a SETTLEMENT, called ( ) is hereby declared to be founded from the date of the present publication: That its boundaries are (,) That a commission has been issued, appointing ( ) commissioners, for the purpose of surveying the territories lying within the limits herein above stated, and which territories will hereafter constitute the SETTLEMENT of ( )* above-named. That so soon as the survey so commanded has been duly performed, notice thereof will be given in the Gazette, and a day appointed for the sale of lands in the said SETTLEMENT—of which land so surveyed, maps will be duly published."

The commission for the surveying the new colony having been issued, the commissioners, with the surveyors, &c., are at once despatched to their work. The expense of this survey will be covered by the sale of the lands, as hereafter to be described.

The survey is a most important proceeding. It need not indeed be actually performed of the whole new outlying, and unappropriated wild territory; but whatever is done, must be done with a view to the whole eventual survey, and with a comprehensive regard to the great

* I have not ventured on a name for my imaginary colony, but would suggest that some rational system of naming should be adopted. Really new, and thereby *distinguishing* names ought to be employed. We pursue at present Dandie Dinmont's plan with his dogs.

physical features of the whole territories, and with distinct and constant relation to the political as well as the private purposes for which the survey is instituted. For the efficient and accurate fulfilment of this all-important preliminary, the experience of the United States affords ample instruction. There is no pretence for saying that any difficulty exists which cannot be easily overcome.

For political and social ends, the country must be divided into COUNTIES, TOWNSHIPS, and PARISHES, and roads must be indicated: for private purposes—for the purpose of giving metes and bounds to private and public property, the land to be sold must be divided into LOTS.

To the minister there is of necessity much confided—and upon his intelligence much will in the commencement depend. Under the circumstances here supposed, the whole is yet in its mere infancy. As we advance, indeed, we shall see the ministerial influence becoming less; while that of the communities already formed, and near to the spots about to be newly planted, and whose interests would be greatly involved in the success of every such new enterprise, will increase, and in the end, render the welfare of the whole set, or group, or SYSTEM of colonies very little dependent upon the capacity or knowledge of the Colonial Secretary. In the commencement, however, we cannot possibly escape from the necessity of some dependence on his activity, intelligence, skill, and honesty.

The minister must decide where the first town shall be placed—and the first town lots laid out—where, for

the first few years, the seat of government shall be established—the court of appeal be holden.

The Gazette now declares the survey to be perfected, the maps are published, and a day of sale of the land is appointed.

We may now suppose the company of which mention has been made, to be large purchasers of land, purchasing like any other person, excepting that as they bring a common purse, they are able to purchase more than isolated individuals.

Now, also, ought to be experienced the full effect of that Act of Parliament of which I spoke above, and which I stated should act by a predetermined rule, at once introducing law, and the machinery of government into the SETTLEMENT. By that Act of Parliament a system of municipal, that is, local management of local concerns would be at once established. There would be a parish, a township, a county organization. The vestry, the township court, and the county council: The various parish officers, such as constables, relieving officers, way-wardens, (*churchwardens?*)* &c.: The township officers, such as the magistrates of petty or township sessions—select men who are sent from the parishes, and other officers needed to superintend matters interesting to the larger sections of the country, and, lastly, sheriffs, and the members of the county council, who would exercise for the county the same sort of jurisdiction that is now exercised in England by Town

* The reason for putting a query here will be seen when I discuss the question of a state church for the colony.

Councils in boroughs, would all be described and provided for. Such an organization* as this, being created by a general Act of Parliament, every man in the new colony would, on the instant of his arriving, and becoming a settler, not only feel interested in the success of the new community, but in some measure responsible for it; he would also acquire a confidence in himself and his position. In fact, that spirit of activity, that energy, which have been so manifest in all the American colonies, would appear in ours, and their prosperity would be commensurate.

By the same Act of Parliament—not only would this internal, domestic organization, if I may so call it, be provided; but so also would that by which the general government of the new community would be carried on.

The metropolis—or, to speak English and not Greek, the mother country—is bound to protect her colony from all external aggression. With a warlike navy, therefore, a colony has no concern. The case is not quite the same with respect to the army: as regards foreign enemies, the mother country must deal with them, and for her army the colony is not called to contribute any thing. But for many purposes a militia is useful; as a police, it is of great use, and if there be wandering and

* In a work like the present, every provision required in so important an act of parliament need not be set forth. What is now necessary is simply to indicate the field of legislation, and give some general idea of its extent and character, reserving for the framing of the bill itself the systematic and complete exposition of all its requisite provisions. But such a bill passed into an act is an indispensable preliminary to any general or comprehensive policy, or line of conduct.

dangerous natives, the defence supplied by a militia organization is indispensable. For a militia organization, therefore, the general act should provide.

The new colony should not (except in the way of requiring protection from foreign aggression) cost the mother country anything.* This is a rule to which there ought to be no exception. If a colony cannot sustain itself, it is useless as a colony. For other political ends, an outlying possession may be needed, and has, therefore, to be provided for, as, for example, Gibraltar, Malta, St. Helena, and Norfolk Island.† But when we have to speak of colonies, and to deal with any country in that character, we are not acting wisely, unless, from the first, we insist upon the inexorable rule, that it must be self-sustaining. In such cases, we exclude all consideration of the expense resulting from our army and navy. These are purely metropolitan expenses —a price paid *for* the colony, but not *by* it. If the colony be not worth the expense of protecting it against foreign attack, we are bound at once to cast off the colony—to sever the connexion between us and it. If the colony thus left by us is able and willing to be independent, it will constitute itself an independent state.

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* I shall devote a chapter to the consideration of a church establishment, and the expense thereof.

† I mention Norfolk Island, because I consider it simply a part of the English prison system: And convict colonies, as they are sometimes called, colonies to which convicts are sent, should be always regarded strictly in that light; attention being paid to the object of ultimately raising the population to a higher and happier condition. This, however, is a question of difficult detail, and deserves to be carefully and *systematically* treated.

If it is not so able, it may, and probably would, be seized upon and made a portion of some stronger power. By the hypothesis, we are not willing to be at the expense of preventing this result, and we should not interfere; neither should we have the right to do so, if the colony chose in such a case to seek the aid, and submit herself to the dominion of a more powerful state. If, however, we think the benefit of the colonial connexion sufficient to justify the expense of protection, we retain the colony at our own cost and charge.* Such is the fair result, and common sense view of the case.

The colony, then, is to maintain itself; maintaining itself, common justice requires that she should tax herself, and should manage her own money concerns.

In every colony there is, at the moment of its commencement, a property from which a fund may be obtained nearly sufficient in all cases for every colonial necessity. If the fund supplied by this source is not sufficient, the colonists must tax themselves for their own exigencies. "The property which is to supply the colony with funds is the wild LAND—which, from the moment of the proclamation in the Gazette—ought to

* To keep land unsettled, because we are anxious to retain it at little expense, is a most unjust and dog-in-the-manger policy. While the land is unsettled, foreign nations do not think its possession worth a war; if settled, they might desire it; and in case of a war, might attack the territory. As we do not like the expense attendant on protecting and retaining it, we keep it waste. This policy has, in cases to which I could refer, guided our colonial ministers; and opportunities of forming important communities have thereby been lost.

be deemed and dealt with as the property, the national property, of the colony so called into existence.

For some time, it is evident that there is no colonial authority to deal with this fund. I have spoken already of a sale of land, and of expense incurred in the survey, but as yet no colonist exists—a colony has been meted out—it has been named—the territory within those bounds has been, by act of parliament, provided with a law—within those boundaries the law reigns as completely as in England, but, as yet, there is no population. Still there is a colony—the political entity is there—and, moreover, there is money in existence belonging to it—the proceeds of the land sold. This sum is to be dealt with. My supposed act of parliament deals with it. The Secretary of State, acting in the name of the colony about to be a SETTLEMENT, is directed to open an account with the Bank of England, and to pay in the money derived from the sale of the land to the account of the colony. And in future, whensoever land is sold by the authority of the Secretary of State, belonging thus to the SETTLEMENT, the proceeds, minus simply the expense of the sale, are to be at once paid to the account of the Settlement at the Bank of England.

The first settlers now proceed to their destination, and the SETTLEMENT exists in fact as well as in name.

But we have not yet explained in what way that which is usually called the government of the SETTLEMENT is to be constituted.

The settlement is, as I have already said, a transition state, in which the colony must continue until its popu-

lation, of which a census is to be taken every five years, reaches the number of ten thousand;* when, by this quinquennial census the population is found and declared to be a number beyond that of ten thousand, if it be only one beyond, then *ipso facto* the SETTLEMENT becomes a PROVINCE, and the consequences of that change will hereafter be explained.

The population have as yet not reached ten thousand, and therefore the colony is still a settlement, and must, for some years, be governed as a SETTLEMENT.

So long as the supposed country remains in the condition of a colony, whether as a SETTLEMENT or a PROVINCE, there must exist some connecting link in the government between the mother country and the colony. The governor is usually that link, and is appointed by the Crown. But so long as the condition of SETTLEMENT exists, the amount of the salary of the governor, and of all the functionaries appointed directly by the Crown, is also determined by the Crown. The judges of the superior courts and colonial secretary are, with the governor, probably the only functionaries that need be so appointed.

The governor and assistants compose the legislature of the settlement.

The assistants are, 1st, ex-officio the colonial secretary; 2nd, a treasurer to be appointed by the governor, removable on the representation of the court of assistants; and, 3rd, one representative sent by each county, and chosen every third year by the freeholders of the county.

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* This number, will, I think, be found sufficient.

This court of assistants to have legislative power in the settlement, and power of taxation.

The court to sit all in one chamber, the governor when present presiding, and to have the casting vote and no other. The rule of presidency, supposing the governor absent and a quorum present, might easily be framed.

The governor to have a veto on all legislative acts, and a power to reserve all such acts as he thinks fit for approval by the Secretary of State.

While the colony continues a SETTLEMENT, the Secretary of State may direct sales of land belonging to the colony, to take place in England upon advertisement duly given in the *Gazette*. The money to be paid into the bank of England to the account of the settlement.

If the salaries of the governor, colonial secretary, and judges are refused by the Court of Assistants, who are annually to provide for the expenses of the settlements, then the Secretary of State may, after notice given in the Gazette of the refusal of the Court of Assistants, order the bank to pay the said salaries out of any money in their hands belonging to the SETTLEMENT. This power is, I allow, a dangerous one; but I think experience shows that some such power is necessary in the peculiar condition of a new community as here contemplated. It will be exercised, subject to the supervision of Parliament, and cannot long exist. So soon as a PROVINCE is constituted, all such power ceases.

The Court of Assistants shall have power to appoint an agent in England for the sale of lands, and from time to time, as they see fit, to order sales of land, the Secre-

tary of State sanctioning such orders of the Court of Assistants.

The proceeds of such sales, after the payment of the expenses, and the salaries of the governor, secretary, and judges, to be applied to the purposes of the settlement as the Court of Assistants shall think fit:—Such appropriation of the settlement funds being by act of the court, duly sanctioned by the governor on behalf of the crown. Acts of appropriation, like all other acts of the court, are to be subject to reservation, approbation, or refusal by the governor acting in the name of the Sovereign. Accounts of all lands sold, whether by order of the Secretary of State or by the agent of the colony, to be duly kept and regularly submitted to the Court of Assistants.

JUDICATURE. — The judicature of the SETTLEMENT should be a regular system of courts.

1. There should be magistrates appointed by the governor, with the powers generally of justices of the peace.

2. Magistrates sitting in sessions every week in each township, with a summary jurisdiction over petty debts and cases of assault.

3. County courts of judicature. The court here should consist of the county magistrates with a chairman appointed by the governor, and the jurisdiction should be unlimited with respect to civil suits, and in criminal matters to extend to all cases except of capital crimes.

4. An appeal court to consist of one judge appointed by the Crown. This judge to try, also, all capital charges.

There has been a great deal said of late years concerning the application of the funds derived from the sale of wild land in our colonies, and various schemes respecting it have been propounded, till at length the whole art of colonization (as the matter has been termed with some affectation) has, apparently, been supposed to rest upon this mode of getting money, and the manner of applying it to the service of the colony. The whole of the leading scheme, however, when briefly and simply described—when robbed of the false importance which many words and favourable and unfavourable prejudices have given it, is simply this:—1. A high upset-price, for the purpose of *concentrating* the population of the colony, is to be affixed to the wild land, and—2. The money derived from the sale of the wild lands is to be applied in sending out well-selected settlers to the new colony. There is nothing more—nothing less—in this much talked-of, much abused, much praised scheme. A great mystery has been created about it—a sort of conjuration solemnity has been employed when describing it. This, however, it is:—And, like most schemes of sanguine projectors, it is based on a one-sided view; has been altogether exaggerated; has misled many who have supposed wonderful effects would follow the plan if adopted, and will mislead many more, if people will trust to excited and sanguine imaginations rather than their own reason.

A colony certainly cannot be planted without inhabitants. If its first settlers are persons fitted to bear the hardships and overcome the difficulties attendant upon the formation of a colony, success will undoubtedly

be rendered more probable, than if a host of idle, decrepit, and ignorant persons, attempt to plant a settlement. This was perceived by John Smith, in Virginia, as early as the year 1608, just as clearly as by any person at the present day; and they who were careful to send out young, handsome, and "incorrupt" maidens, were well aware of the benefit resulting from well-selected emigrants.

But inhabitants are not all that is required, as the very statement allows which insists upon the necessity of selection and concentration. Let us illustrate this, and then judge of the wisdom of insisting upon the application of the *whole* of the land-fund to the sending out inhabitants. Suppose, when the first sales have been made, there is in the bank, paid to the account of the settlement, say the round sum of 10,000*l*. Apply this fund, says this new system, to emigration—use it all, and place upon the strand of the new settlement as many settlers, well chosen, as the money will enable you to export. Is this a wise proceeding? The moment the colony begins to exist—the moment a new community is formed—there are wants which at once arise, and are felt by every man in the community. These wants must be provided for at the common expense. First—and I place it in the very front—there is the want of a government. You need security to be established immediately; for without security there will be no steady labour, and without steady labour there will be no success. Let any one who wishes to learn the influence of government, in this sense, upon the fortunes of a new community, read the early history of Virginia and the New

England States. Not only was security needed for their success, but the stimulus of individual interests, which could only be created by the institution of private property, was needed also. They (the colonists of Virginia and Massachusetts) began with having all things in common, and could never advance; the right of private property was afterwards established, and from that moment the colonies began to prosper. But the right of private property means, that there is somewhere a power which will protect each individual, and insure him the privilege, unmolested, of enjoying his own—his private property.—This power is the government.

But government costs money; and, I ask, would it not be wise to limit the number of your settlers, and apply some of your funds to the maintenance of a government which will insure security? This should be, indeed, a frugal government, and there is no means of making it effectually a frugal government but intrusting it to the people themselves.

But I have not by any means exhausted my catalogue of wants. No new settlement can succeed without *roads;* but roads are expensive. Bridges are equally necessary; these also are expensive. A wharf will be needed. Now these are common wants — that is, wants which all feel—but it is not wise, particularly in a new settlement, to throw the burthen of making roads, bridges, &c., upon private enterprise; and no application of the common money could be devised more conducive to the common weal, than the making good roads at the very commencement of the settlement.

A court-house, a jail, are absolutely needed, and they

who seek to frame successful colonies will limit the number of the inhabitants, and supply all their absolute necessities, rather than send out double the number of selected emigrants without any provision of the kind.

But if here it is said:—"No such thing as employing *all* the money derived from the sale of land in sending out emigrants was ever intended or proposed; all that *you* have said, *we* mean;"—if this be so, then I answer, Let us reduce this supposed great discovery to its true dimensions. You mean merely this:—"It is wise to sell the wild land of the colony, and apply some of the money to sending out a certain number of selected emigrants."

Even this statement, narrowed to this insignificant condition, must be received with many saving considerations. In the very infancy of the colony, *the government of the colony* may find it a wise policy, not simply to *attract* emigrants, by offering great facilities and advantages to the settler, who seeks to procure for himself and his family a comfortable home, and the means of subsistence, and a chance of advancement in life;— It *may be*, I say, a wise policy in the government of the colony to go beyond this at the very outset, and not only *attract*, but actually to take out, a number of selected emigrants: But this will, and must, soon cease to be wise policy. If the colony be well conducted, fertile, and enjoying a good climate, such attractions will quickly bring out voluntary emigrants in large numbers. There will be no need to swell the tide of emigration to such a country; you will have enough, and more than enough. The application of the country's

wealth ought to be left to the prudence of the people themselves. If to them it seems the wisest application to bring out emigrants, we may be assured that they will act upon this opinion; and if it should not seem the wisest course, I, in that case, would rather put my faith in the wisdom of the community most interested in the matter, than in the opinions of any person who cogitates upon the question, without experiencing one of the difficulties which have to be dealt with.

There is, however, something which is kept back and veiled in this proposed and vaunted scheme—a thing *understood*, but never openly avowed. This plan is proposed to the rulers of England as a useful scheme, by means of which the population of this our own country may be kept down. This may be a useful end for England; but we are not justified in attempting to attain it at the expense of the colonies. If England need this thing—which for my part I doubt—let England pay for it, and not shabbily, by a device, shift the expense on others; and let her not lend her ear to those who come with a scheme of gain in their hands, as a temptation for her to quit the straight plain path, and follow the crooked ways of a policy that cannot be called honest.

Great stress has also been laid upon the evils of allowing a population to be *scattered* over the country; upon the misery resulting from high wages of servants, their insolence; the horrors of an American *aid*, or *help;* the loss of harvests from the want of hands to gather it; and all the many mischiefs attendant upon what the Americans, quite alive to the inconveniences of the thing, call a *sparse* population. Upon all these things

the same class of politicians have descanted; and in opposition to this dismal picture have placed a rhetorical description of the benefits of *concentration*. And having thus properly possessed the hearer's mind with a horror of one condition of things, and delight when contemplating the other, a scheme is proposed for his approbation—a scheme for the purpose of preventing this mischievous *scattering*, and by compulsion producing *concentration* and all its attendant benefits. The scheme consists of a rule by which a high upset price is affixed to all the wild land offered for sale in the colony. I own that I look with great suspicion upon every attempt by a government to direct men in the application of their capital, and in their pursuit of wealth and happiness. The interest of the parties themselves to take the wisest course, whatever that may be, is so strong, that I would rather trust to its influence than to the wisdom of any government, were it composed of philosophers the wisest the world ever saw. Philosophers, too, are very apt to make terrible mistakes when they deal with men, in place of propositions. Locke failed egregiously when he attempted to frame a constitution for Carolina; but the settlers themselves devised one of great practical worth—one which has made the people of Carolina a very happy community.

We, also, living in the midst of the most complicated state of civilization which the world ever beheld, are apt to judge very erroneously when we look at men in a society surrounded by circumstances of so novel and peculiar a character as that of the new States of North America. The pleasures which that state of society

affords are to us unknown. The strange—the stirring life—the rapid advance, the activity, the eagerness, the strife even, the absence of all the constraint which besets us in our mode of living—the roaming and the freedom—these are exciting, intensely exciting enjoyments, of which we know nothing, and which we cannot appreciate. Yet they who have tasted of this magic cup are for ever after slaves of "its brewed enchantments." They feel, when brought into the subjection of our civilization, like a wild animal confined in a cage—his waking hours are hours of misery, because of the narrow limits of his enforced home; and in his sleep, he dreams of the distant wilds which he has lost for ever, lives again his life of happy freedom, and wakes, to find himself in the miserable thrall of his narrow prison.* All the inconveniences which in a drawing-room are talked of with intense disgust, are passed by without comment, or are heeded only for a moment; they add to the excitements, and heighten the enjoyments, which that state of society affords.

A class of men, moreover, has been brought into existence in America by the necessities of a rising country, whose life is passed as the PIONEERS of civilization. When they have rescued the land from the wilds, they grow tired—they become sick of the "clearings;"

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* See the confessions, on this subject, of the young Ruxton, an Englishman and an officer, who was so enamoured of this wild existence, that he left England to enjoy it, and died shortly after his return to America. The "*Far West*" is the title of his work, and gives the bright side of the picture.

(it was no exaggeration of the old hunter, who said he lost his way in them;) and they pass on, and are succeeded by the farmers of the country, a race very unlike our tenant-farmers, but a hardy, active, shrewd race, nevertheless, well fitted for the task they have to perform. And wonderful are the results. These are best to be seen in the Western or Prairie States, which, if the doctrine of concentration had been acted on by the United States, would still have been the untilled wastes which they were half a century since, with the wild Indian for an inhabitant. The old states would not, however, have been at all improved by this hopeful scheme. The riches of the west have reacted on the older states; the rising young communities have supported and buoyed up their older brethren. Fortunately for the United States, practical wisdom has presided over their colonization. They, fortunately for themselves, have not been obstructed by an inert and jealous colonial office; nor have they been encumbered by futile schemes,—by which the private interests of the people are subjected to the supervision of the State, and individual prudence superseded by government wisdom.

Throughout the plans and arrangements which I propose, I look to the one object of planting successfully a colony—and promoting its success to the utmost, after it has been planted. By this means, I assume that the welfare of the mother country is most fairly, as well as most effectively promoted. My object is not to obtain a means of cheaply getting rid of a troublesome population. I offer no scheme to my countrymen for any such purpose; neither do I propose to them a scheme of

money-getting, or a speculation by which a large per centage is to be obtained on their capital. I address myself to the statesmen of England, and submit to them for consideration a system of arrangements, by which our waste dominions may be made the happy homes of future generations—of millions who will speak the language—be proud of the name, of Englishmen—and continue in close connexion with the parent state, because united to her by a strict community of interests. Viewed with reference to these considerations, this question of the application of the money produced by the sale of the waste lands, though an important, is by no means the most important subject of inquiry. Some of the early difficulties which arise in planting a colony are, by means of the fund supplied by the land, rendered less formidable. But many things must be thought of besides this one. It is an item, indeed, not inconsiderable in itself, but if looked at with reference to all that must be taken into the account, will be seen to have been greatly overrated, and to have withdrawn consideration from other and yet more important matters, without which the means furnished by the land will be of no avail towards attaining the great national *end* we are now seeking.

The fashion of the present day is very much to deride all ancient (classic) experience; but I cannot avoid, when seeking for experience upon the subject of colonization, looking sometimes to the endeavours of the great forerunners in all human improvement, the Greeks, and asking what they did as the founders of colonies? Their colonies were very unlike those of the Roman. There

was much more in them of the circumstances which belong to a modern English colony, than can be found in any colonies of Rome. The iron lords of Rome thought only of extending Rome as Rome—the dominant, enforcing, tyrannous Rome. Greece did not seek this end. There was in her colonies the kindly, gentle feeling of the *mother* city—a word which we have adopted with the feeling which it enunciates. That gentle, kindly tie, we also wish to exist, and we endeavour to create it. Now, then, let us look to Greek experience—let us look at the great colonies of Sicily, and let us *overlook* the injustice done to the aborigines—the Sikels and the Sikans—as we overlook the aborigines in Asia, Africa, and America. That we—we Englishmen—do so, cannot be denied; and it is nothing but a base, shuffling hypocrisy that attempts to hide this fact. I acknowledge it; and I say, that for the mass, the sum of human enjoyment to be derived from this globe which God has given us, it is requisite for us to pass over the original tribes that we find existing in the separate lands which we colonize. When the European comes in contact with any other type of man, that other type disappears. Let us not shade our eyes, and pretend not to see this result. Hypocrisy is by such a proceeding added to all the evils which we must encounter. The result is the same. The aborigines *disappear*.

The Greeks afford us a remarkable example, if we read their history with carefulness, and with attention to *things*, and not to words. What says their latest, and, though Thucydides has written their story, I may say their most thoughtful historian—one who brings to his

task a remarkable combination of qualities—one who in these days of progress has been a merchant—a pupil of a philosopher—a democratic representative of the people—and is a scholar—need I say, that I mean Mr. Grote? What, then, is his statement as regards Grecian colonies? The *concentration* of the Greek Sicilian colonies was complete. The outlying and hostile population forced them to a remarkable concentration. The land was fertile, the climate exquisite, the people of the finest type the world has ever known; and when I say so, I take the Anglo-Saxon type into the comparison. What does Mr. Grote say of the Sicilian colonies of Greece?

"Their progress, though very great, during this most prosperous interval (between the foundation of Naxos, in 735 B. C. to the reign of Gelôn at Syracuse, in 485 B. C.) is not to be compared to that of the English colonies in North America; but it was nevertheless very great, and appears greater, from being concentrated, as it was, in and around a few cities. Individual spreading and separation were rare, nor did they consist either with the security or the social feelings of a Greek colonist. The city to which he belonged was the central point of his existence, where the produce which he raised was brought home to be stored or sold, and where alone his active life, political, domestic, recreative, &c., was carried on. There were dispersed throughout the territory of the city small fortified places and garrisons, serving as temporary protection to the cultivators in case of inroad; but there was no permanent residence for the free citizen except the town itself. This was, perhaps, even more the case in a colonial settlement, where every-

thing began and spread from one central point, than in Attica, where the separate villages had once nourished a population once politically independent. It was in the town therefore, that the aggregate increase of the colony palpably concentrated itself—property as well as population—private comfort and luxury not less than public force and grandeur. Such growth and improvement was of course sustained by the cultivation of the territory, but the evidences of it were manifested in the town; and the large population, which we shall have occasion to notice as belonging to Agrigentum, Sybaris, and other cities, will illustrate this position."*

Here then we have an instance of a very peculiar concentration—and that, too, of a people in every particular enjoying a high state of civilization, and themselves intelligent, active, brave, and prudent. Still the historian, well versed in modern as in ancient history, as familiar with the adventures of Raleigh as of Archias —as conversant with the story of Virginia as of Syracuse,† declares that the progress of these Grecian colonies, though eminently successful, was not to be compared with that of our North American colonies. If then they were inferior to the thirteen old colonies, how much inferior must they be to the seventeen new colonies

* Grote's Hist. of Greece, vol. iii. pp. 487-8.

† Mr. Grote is evidently attentive to all that is going on around him at the present moment, though he be no longer member for the city of London. The historian of Greece watches, as he ought to do, the fortunes of England. He is not less intent upon the fate of New Zealand than upon that of Sicily. See p. 486, vol. iii., of the Hist. of Greece.

which have been founded since 1783. Why should we then suppose that any peculiar and magical effects are to be attributed to concentration; and why should we attempt, by legislative provisions, to enforce a concentration, which private interest would not induce? why should we coop people within a rigid circle of restraint, who desire to follow the suggestions of their own hopes and anticipations — and, under the influence of this powerful stimulus, to brave all the difficulties of the wilderness, and to extend the area of a civilization, imperfect if you will, yet still far superior to anything which these wild regions ever yet knew? There may be loss, there may be folly, there may be disappointment— yet, after the struggle, there will be found a town, a district, a people of civilized beings, securely placed, and enjoying happiness which they could not hope for in their ancient state—and there will be seen to be the broad foundations of a thriving, self-supporting, and constantly improving community. These surely are great results, sufficient to compensate us for the petty inconveniences to which, undoubtedly, the inhabitants of every rising community are subject, in which land is cheap, and labour highly rewarded. We should, however, remember the fable of the lion and the man. Ask a working man what he thinks of this state of things.

Having thus described the administrative and legislative machinery, we proceed to the next step in the government destined for our new community.

SECTION III.

PROVINCE—DECLARED—TRIPARTITE CONSTITUTION—OF WHAT COMPOSED—POWERS OF—CIVIL LIST—LAND FUND—TRADE—DISPUTES RESPECTING POWERS—THE CHURCH—EDUCATION.

Now, let us suppose our SETTLEMENT to have existed five years, and that, its census having been at the legal time completed, the number of its inhabitants is found already to exceed ten thousand. It now becomes the duty of the governor, in obedience to the provisions of our Act of Parliament, to notify to the Secretary of State that the population of the SETTLEMENT of ( ) now amounts to the number, say, of eleven thousand souls.

The Secretary of State, also, in obedience to the Act, publishes that fact in the next Gazette, and notifies that, in consequence of this increase of the population, and in pursuance of an Act passed in the year of our Lady the now Queen, the said SETTLEMENT of ( ) has now become the PROVINCE of ( ), and entitled to all the rights and privileges by the said Act conferred.

The Settlement is now the PROVINCE of ( ).

We have seen that, in the case of the territory of the United States passing from the condition of a Territory to that of a State, and becoming a portion of the great federal Union, an act of Congress is needed; and the people themselves frame their constitution. This mode of proceeding is hardly compatible with the relative position of a colony and its mother country; and would, besides, be in some measure disagreeable to the people of this country, because opposed to their customary habits

of feeling and of conduct. I therefore propose to obviate every difficulty arising from this source by providing beforehand, and by Act of Parliament, for the case which I have here supposed. I would so provide by general provisions—provisions cautiously considered, and applicable to every colony planted by Englishmen, as I have already supposed, whether in British North America, Australasia, or South Africa. To New Zealand, also, these provisions ought to apply.

The fact of the Colony becoming a PROVINCE has not severed the relation between the colony and the mother country—it has merely modified the forms, and changed some of the incidents of that relation.

Secretaries of State for the Colonies, and the Colonial Office, (very different things, by-the-bye,) are much in the habit of reasoning upon colonial constitutions, after forced analogies between them and that of the mother country. They make two houses of parliament, and call one the upper, the other the lower house; and the governor they will talk of as if he were the King. Now, none of these analogies will bear examination. The so-called upper house, which they are ever talking of as a House of Lords, has none of the attributes of a House of Lords. The members of this upper chamber are not an aristocracy of wealth or birth; they have none of the social importance which wealth gives, neither have they that which is derived from a long line of ancestry, and *the prestige* of noble birth. They are men suddenly lifted by the Crown from the situation of plain subjects, and gifted with legislative powers; but they exercise no influence over the people, neither are they the objects of such respect as we see

paid to noblemen, or men of large landed possessions. So, again, with the governor—no man in a colony looks upon the governor as the King. There is no personal regard felt towards him, like that which is called loyalty, and which is really entertained for the Queen; and which Englishmen feel for the King of England, though he may be individually wholly unworthy of respect. The King of England—the Sovereign represents, for certain great purposes, the great nation of England — bowing to him, respecting him, is really bowing to and respecting England, and England's mighty power. But who looks upon Governor Thomson, or Governor Johnson, as any thing but Thomson and Johnson? Very good men, perhaps, in their way, but representing no idea, no feeling, associated in men's minds with a long line of royal ancestors—with a mighty power—with a wide-spreading dominion. Let us not be led into the use of idle analogies—let us keep our minds intent upon the real difficulty of the problem to be solved, and the peculiarity of the case with which we have to deal. The peculiar relation we have to maintain is that of mother country and colony. The two things we have to keep in harmony, are the two interests of the one country and the other. We have to provide a good government for the colony, and yet preserve undiminished the metropolitan power of England.

In England, we are accustomed to our tripartite constitution; and we have not only imported it into our colonies, but we have inculcated the feelings we ourselves entertain upon the minds of the citizens of the United States. Nowhere will you find stronger supporters of

two legislative chambers than in America. A remarkable instance of the growing strength of the opinion in favour of two houses, or chambers, has been afforded lately in the instance of Rhode Island. By the charter granted by Charles II., a constitution was devised for the new colony, and, in that constitution, there was only *one* legislative house; and Rhode Island, when she renounced her allegiance to England, retained her old constitution under the charter of Charles II. But a few years since, she altered her model, and made her constitution similar to that of all the other states, by instituting another legislative chamber; she, up to that moment, having been the sole state of the whole thirty with a legislature of one legislative body only. I therefore yield to the feeling which I find so stoutly maintained in England and America.* The example of the National Assembly of France, I own, has given me no confidence in my own preconceived opinion, that one chamber was sufficient, and that two chambers were merely a clumsy addition. The facility with which the people of France change opinions, feelings, institutions,

* During the late discussions in France on the subject of a single, as compared with two chambers, I have reason to know that many intelligent Americans were greatly interested in the matter, and urged with great earnestness the national assembly to adopt the plan of two chambers. One of the most distinguished of the Americans, now in England, wrote warmly to me on the subject, because, by an expression I had used, he had reason to believe that I approved of the plan adopted, which is, as we all know, that of one chamber. He cited the experience and feelings of his own country, and naturally dwelt upon it as most weighty testimony in favour of two legislative bodies.

dynasties, utterly destroys their authority in matters of legislation. I feel not at all sure that, before this work of mine appears in print, the proposed French constitution may not be swept away by another revolution, and that an Emperor for life may not be by acclaim substituted for an elective President. I would rather stand in the ancient ways of our own constitution, than follow so fleeting and dismal a meteor as a French institution.

I propose, then, that the constitution of the new PROVINCE should consist of—1. A LEGISLATURE, composed of—1. A Governor, to be appointed by the Crown, for such time as to the Crown seems fit. The Crown may appoint whom (being a subject) it pleases, when it pleases, and for so long as it pleases. 2. A legislative Council to be elected for *five* years by the freeholders of the country, each county returning one member. And, 3. A House of Assembly, elected for *three* years by the freeholders, each county sending two.* [I shall immediately discuss some points connected with the powers of the legislature.]

2. Next of an ADMINISTRATIVE body called the Executive Council, to be appointed entirely by the Governor, and selected, like our own administration,

* I do not dwell here on the constituency, or the mere forms of voting, &c.; but the constituency ought to be as wide as possible, and the elections should occur at times predetermined by the constitutional law. The ordinance above quoted will, I suppose, somewhat surprise those who look to America for democratic examples. The property qualification, both for electors and representatives, being by that law stringently enforced.

from such persons as can command a majority in the two Houses of the Legislature.

3. Of a JUDICATURE. The judges to be appointed by the Crown, acting by means of the Governor. The number of the judges must be decided, in the case of each Province, by its necessities. The legislature must for themselves decide upon this question.

It is not necessary for me to give a precise and complete enumeration of the powers to be possessed by the Legislature of the Province. Some observations, however, are needed on a few separate and peculiar questions:—On the Civil List—On the Land Fund—and Trade. I will briefly remark on these three subjects, and in the order I have named them here.

1. The Civil List has always proved a stumbling block for Colonial Secretaries, simply because they insist upon following false analogies. In England, when the Sovereign mounts the throne, a civil list is voted by parliament for the life of the Sovereign. The colonies have constantly demurred and hesitated when the proposal has been made to them to follow the example of England, and in the same way provide a civil list for the life of the new Sovereign. The objection of the colonists has not yet been answered; it is this:—they say, there is no danger in passing the civil list in England for a Sovereign's life, as it forms so very small an item of the whole expenditure of England, and because full power and control are retained by parliament, not merely by the annually-voted expenditure, but by the Mutiny Bill, which is renewed from year to year. Parliament, by refusing that bill, or by refusing to pay

the army, can compel obedience to its wishes. But we, say the colonists, if we pay our civil list, can have no guarantee for our having a parliament for years; and if the governor chooses to set us at defiance, we have no longer any effective check upon him.

This argument I think valid. On the other hand, there is certainly an evil in making the judges dependent on a popular assembly from year to year for their salaries and subsistence. There is a road out of this difficulty. We may adopt the plan of the Belgian legislature—a very grave, sedate, and rational legislature—and vote the civil list, including therein the salaries of the judges and the governor, for *ten years*. If there are any other officers who need to be included in the civil list, they may be easily placed there. I do not, however, see reason why any should be so placed, except the judges and the governor.

2. So soon as the PROVINCE is constituted, all power of the Secretary of State over the wild lands of the colony ought to cease. The account at the Bank of England is closed, and the money belonging to the SETTLEMENT should be paid into the Exchequer of the PROVINCE; the agent of the SETTLEMENT no longer exists, and all subsequent regulations concerning the land, the sales, and the agent, must now emanate from the Legislature and Government of the Province.

The governor still possesses the power, as representing the Sovereign, and, in her name, of assenting to, of reserving for approval, or of refusing, any measure or bill passed by the two legislative houses. This power, to be exercised by the governor appointed by the Crown, is the link connecting the colony and the mother country.

The above statement as to the land within the colony, and the control of the colonial legislature over it, and its whole revenue and expenditure, will, I have no doubt, appear to the casual reader a very fair, and not unexpected proposition. But they who are conversant with the Colonies and with the Colonial Office, well know the sort of bitter opposition with which it would be met, if the Act of Parliament I have so often spoken of were now a Bill before parliament. The fierce, pertinacious opposition of the Colonial Office, when this proposal was made on behalf of the Canadas, or rather on behalf of Lower Canada, I well know. The House of Assembly demanded, and wisely demanded, the control, not merely of the nett produce of the Land Fund—the produce which the authorities chose to pay into the provincial exchequer —but they asked for the accounts of the gross sums obtained—they claimed to have a voice respecting every farthing which the Land Fund supplied, and a control over the expenses of collection. But they were met by the old tale of analogies,—the wild lands and other public estates were Crown lands—they were like the hereditary property of the King in England, and could not be touched without an invasion of the prerogative. A rebellion broke out before this foolish opposition ceased. It ceased as to Canada, *because the Colonial Office was afraid to continue it.* The hidden rulers of that mysterious precinct were frightened into compliance. But in those cases where no fear exists, control over the wild lands will be firmly retained. This mischievous power is the bane of our colonies. The persons who exercise it may be, and I dare say are, very well intentioned—I say nothing of their motives. They are, however, too far off—too

much occupied with other matters—to be able properly, or even fairly, to deal with interests like these. We are all of us accustomed to hear very sharp criticisms upon the system of centralization which pervades every part of the government of France. Napoleon at Moscow, and in the Kremlin, regulating the opera at Paris, may be a more ludicrous exaggeration of this system, but he certainly is not a more complete or mischievous instance of it than a clerk of the Colonial Office in Downing-street deciding upon the steps to be taken for the survey and sale of lands in South Australia, New Zealand, Port Philip, Natal, in the townships of Lower Canada, or away on some far distant river that may fall into Erie or Ontario. Yet such, by the theory, is his power. The probability is, that in any case of the sort, he would be profoundly ignorant of the very name of the place,* and without one atom of knowledge which could guide his decision upon the matter respecting which he would

* A celebrated Chancellor of the Exchequer, now no more, once asked a friend of mine, when discussing with him the subject of the timber trade, if Montreal was not the capital of Upper Canada. My astonished friend, who had before the interview very exalted ideas as to what a Chancellor of the Exchequer was, came to me breathless to relate the story. I myself was malicious enough to ask a young gentleman, sent to a Committee of the House of Commons by the Colonial Office, in order to instruct us benighted legislators, the question, "What are the King's posts, sir." The committee was inquiring into the grievances of Canada, and the question related to that country. The King's posts are, in fact, certain distant establishments far beyond the limits of civilization, kept up for purposes of intercourse with the Indians. The answer was, "Oh, they are the mail, in fact, and carry letters!!" Yet this gentleman would have considered himself a much more competent

have to decide. The reason, however, of all this evil opposition, is a sort of vague fear, that mischief will follow their own loss of power. The certain mischief now done they cannot perceive; but on the dangers to English connexion from conceding to the people power over their own money, the whole host of the Colonial Office can be violently eloquent. The abstract idea of a colonist, in the mind of a colonial official, is of a man ever on the verge of rebellion, and always manifesting his disloyalty by complaining of official expenditure. And colonies, by the same worthy class, are looked upon as *patronage* ground. They are not established for any of the strange ends which I have supposed. The notion of extending the blessings of civilization to lands now waste—of increasing the numbers of a happy and intelligent people—of rendering our distant and now useless territories a means of adding to our power, and securing the well-being of our industrious population,—all these, and similar ideas, he treats as mere idle pretences, unmeaning words,

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person to rule over the crown lands than the legislature of the country. The particular instance of ignorance was the more remarkable, because the existence of the King's Posts Company was connected with one of the grievances of which Lower Canada complained. Why her representatives complained, will be seen from the following extract and description:—"There is an establishment called the King's Posts Company's Establishment, at the mouth of the Metabetshuan, which enters Lake St. John on the south. . . . Nearly the whole of the country east of Saguenay, and a large part of the country west of it, are called *the Domaine, and comprehended in a lease from the Crown to the King's Posts Company, who have the exclusive privilege of bartering, hunting, and fishing within the limits of the Domaine.*"—Page 442 of the "Geography of America," published by the Useful Knowledge Society, in 1841.

and nothing more. But colonies are good things, because they are supposed to need governors with large salaries, and secretaries, and judges, and commissioners,—all admirable means of providing for young gentlemen who have nothing in England except many wants—who want to live without much trouble—who want to marry —who want to give parties, and keep houses, and to maintain pretty establishments. A colony is a place which is destined to supply this class of wants for a certain class of people. Therefore, there is a Colonial Office, and a Secretary of State for the Colonies, and two under-secretaries, and himself and A, and B, and C, as clerks, and the porters and the messengers, and green boxes, and the house in Downing-street, and debates in parliament, and committees, and despatches, &c. &c. Patronage and the Colonies are indissolubly united in his mind, and his whole conduct is governed by the one great guiding principle,—viz., extend and retain patronage. Unfortunately, while patronage flourishes, the Colonies are ruined.

We shall see hereafter, that to the federal government I shall propose to intrust the power of regulating commerce. This power will, therefore, materially restrict the power of the PROVINCIAL legislatures on this important subject. But in the case of New Zealand, where no federal government is contemplated, the question of the power and its limitations comes to be considered as one of the attributes of a provincial legislature. On that account, what observations are required respecting it, without reference to FEDERATE rights, may now be made.

Parliament, when giving this power, should clog it with one most important restriction; neither for purposes of regulation or taxation should any power be given to tax the produce and manufactures of the mother country or of her colonies; and the mother country ought to resolve not to tax the produce of the colonies.

Among the canons of colonization I enumerated one that laid down the rule that the mother country should restrict her aid and assistance to defending the colony against attack, and to *attracting* emigrants to the colony, by doing all that was in her power to make the colony a desirable place of residence. The only legitimate mode of doing anything towards this, really in the power of the mother country, is by establishing a completely free trade in the colony. If the colony be in itself naturally fertile, and possessed of a healthy climate; if she enjoy security from all foreign attack; if person and property are also safe from any domestic aggression; if there be perfect liberty of conscience, and rational freedom for the declaration of opinion; if there be no unjust distinctions drawn between man and man; and, lastly, if her ports are free and open to receive the produce of every country not actually at war with us, then, indeed, the colony will be, in so far as by human means it can be made so, a desirable place for the emigrant and the settler; and they who have determined to try their fortunes in a new land will look with confidence and hope to such a country as I have described. If the imperial government make and insist on a perfect free trade between herself and the colonies, she has done all that in the present state of our knowledge she can safely attempt. If we could rely

upon the efficacy of direct taxation in bringing into the Exchequer a sum sufficient for the exigencies of Government, then all customs and excise, and all regulation of commerce might be prohibited. But we are hardly so assured. Some means, therefore, must be left through taxes on commodities within reach of the federal government. To the New Zealand legislature, then, and to the federal legislatures of the three SYSTEMS, the power of taxing foreign commodities might be confided. The people if they please, if they think it wise, will adopt this mode of providing for their own necessities. Their interest will quickly teach them that a free trade with the whole world is a most grateful condition of things, but in the case of the mother country's produce and their own, the mother country would do well to insist upon free trade without asking their consent.

There will arise a question of power between the province legislatures and that of the federal legislature. Let us suppose, for example, a federal legislature is in existence in Australasia; and determines to admit duty free the wines of France. The province legislature of Van Diemen's Land, say, needs money, and thinks it can advantageously raise a revenue from a small tax on wines generally, including those of France. By our proposed constitution, would the provincial legislature have power to lay a tax on their own enjoyment of foreign wines? American jurists in this case draw a distinction between the power of taxation and making regulations concerning commerce, and would answer to my question by saying that Van Diemen's Land might put on the tax as a tax, but not as a commercial

regulation. In some cases, this would be a distinction without a difference, though there is in principle a great difference in the imposing a tax for the purpose of revenue, and for the regulating commerce. Difficulties and quarrels have arisen in consequence of clashing rights in this case, and I therefore am inclined to believe that the safest course would be not to concede the power of taxing foreign produce to the provincial legislatures, and to allow it only to the federal legislature of the SYSTEM.*

THE CHURCH.

In the preceding section I have spoken of the governor as the only connecting link between the mother country and the colony, when at length the colony reaches its destined condition of a PROVINCE. This declaration may excite surprise, and I can fancy some one who has been accustomed to read of, perhaps to think of, and wish to be, a colonial bishop, asking, "Is not the church established by law a link in this happy chain? or do you, in your wild spirit of change and destruction, contemplate a severance of church and state? do you propose to have free trade in religion as well as in corn and other commodities?" My answer is, that for a name I care very little, but that I am not accustomed, though some others are, to connect the idea of a church and religion with profit. I know that colonies are but too often considered as a field for spiritual as well as lay *patronage*, and that many who have no hope of living by the pro-

* This question has been raised in many shapes before the Supreme Court of the United States, and the decisions have all tended to place the power exclusively in the Congress.

fession of the church at home, still believe that possibly in the colonies some good thing may be obtained. They who think of the matter in this light are not very likely to be particularly anxious in their inquiries about the probable good they may effect in their vocation. But this inquiry I am forced to institute, because the sole object I have in view when treating of this subject is to ascertain the most effective mode of forming a happy colony; and I therefore am bound to ask, will the establishment of a state church in our colonies be a benefit, or the reverse?

If the colonists were all of one religion, and likely always to remain so, much indeed might be said in favour of an established clergy in a colony. If by any arrangement, a well-educated man, bound by the very tenour of his duties to watch over the morals of the community, and to preach a humanizing creed, and enforce a pure and exalted morality, could be placed in every parish of the new country, and the public, at the same time, believed it their duty to listen to his teaching, and render obedience to his virtuous admonitions,—then, indeed, I should be among the most earnest and eager supporters of an establishment, and more especially in a colony. I say, more especially in a colony, because there, for some years, the tendency is for the inhabitants to degenerate, as respects the courtesies, amenities, and elegancies of life. They who have travelled in America, must often have remarked, in the distant settlements, two and sometimes three generations of one family, under one roof. The old grandfather—the patriarch of

the family—a gentleman, perhaps a soldier—probably left his native country comparatively a young man; the next—his son—a youth when his father emigrated, has, since that period, dwelled wholly in the colony—has married there; and the *third—his* son, who is now a young man. When these circumstances have been found, the traveller is sure to be struck by the manners of the old head of the family. They retain the indelible traces of his early habits, which the rough life he has led in the wilderness has not erased. The ease, composure, politeness—the manners, in short, of a well-bred man—of a gentleman—still remain. In the son, all these traces of gentle manners are fainter: *he* has acquired much of the roughness to which for so many years he has been accustomed; and his son, the grandson of the house, is like all the rude settlers around, and in nothing to be distinguished from the descendants of the peasant who emigrated with his grandfather. This result is inevitable. Time, indeed, brings matters, in some measure, to the point from which they started. The community thrives; the rude habits of a rude life by degrees disappear; and as generations arise and pass away, the growing wealth of the people induces the wants, and with the wants, the pleasures, and habits, and elegancies of civilized life. The length of the interval depends entirely on the rapidity of improvement, and the increase of the means of the people. In some happy instances, the growth of the new community has been so quick—it has so soon shot up into the condition of a rich as well as thriving state, that time for deterio-

ration has not been given.* On the other hand, places may be seen where the fight against the difficulties of a new life has been so hard—to win more than a bare subsistence has been so difficult, that every trace of the old stock, and the habits they brought with them from their native country, have entirely ceased from the land, and a rude and boorish race has descended from ancestors of gentle manners as well as gentle blood.† Now, the existence in each parish of an educated pastor would have a strong influence against this downward tendency, and would thus prove a great benefit to the whole community. But unfortunately there are, on the other hand, many counteracting influences. The probability is, that by establishing a state church, among a community formed by any portion of our countrymen, you would establish a source of contention and strife—a never-failing cause of animosity — and therefore an efficient check upon all improvement. Dissent in England is so prevalent, and so organized, that you cannot expect to have any body of settlers without finding among them men of various creeds; and these creeds having each an organized ministry ready to take up the quarrel against the church, and to carry bitter dissension into the new community. In this community, where everything has to be begun—where all are equally new to the land, a feeling of injustice is immediately aroused by any appropriation of funds to a peculiar class of the

* These fortunate communities are almost all *American*, and not subject to England.

† If any one travel in Upper Canada, he will find instances, and too many, of this statement.

settlers, or by any favour shown them. Such a proceeding is thought unjust, and the unfairness and inequality are loudly complained of, and warmly resented. In England, the church was established ages before there was any notion of dissent; and men often bear with an ancient abuse who would rise up in arms were it established to-day. I believe, therefore, that for the sake of peace and true religion, we ought, in every new colony, to allow the voluntary system full play, and abstain from all attempts to impose an establishment upon an unwilling community.

A colony, in all things, I have assumed, is to be self-sustaining. I therefore object to any proposal which will have the effect of bringing a charge upon the people of this country—of England—even for the maintenance of a church in the colony. If societies in England voluntarily establish a church, and maintain it in the new colony, no one has a right to complain—nobody would complain. This is no charge on the people of England by act of parliament. If I pay, I do so because I like it, not because I am forced; and as nobody else is compelled to follow my example, no complaint will arise. When the service is left to voluntary efforts, there is seldom any want either of pastors or money.

I may, however, be asked whether provision for the clergy may not, without difficulty, be found in the waste lands of the colony; whether, in each parish, it would not be easy to allot a certain portion of land for the church and the clergyman. My answer is, that certainly the thing is easy, but would be deemed unjust. In Upper Canada, every tenth lot of land was reserved,

and called a clergy reserve: a magnificent provision, assuredly, for the church. But what was the result? A universal outcry—discontent in every part of the country, because of the mischief and injustice of this appropriation. Mischief and injustice? Yes. Every tenth lot reserved for the clergy lay as a sort of incubus upon the people. They—the reserves—were not one-half—nay, not one-hundredth of them, appropriated. Yet roads had to be made past them at the cost and trouble of the whole people of the parish; fences had to be put up, also at the cost and trouble of the people; and after all, the clergy were not provided for. A piece of uncleared land will not of itself maintain anybody. Capital and labour must be bestowed on it, neither of which could be bestowed by the clergy. They had, therefore, to be provided for by other means; and means can only be supplied by some sort of tax—some taking of money which belongs to the people. You might, indeed, sell land, and invest the proceeds, and by the interest maintain the clergy. But this is plainly to take of the substance of the whole people, to provide only a part with religious benefits. There is no medium, if we wish to escape the imputation of injustice, between paying all, or paying none. At the outset I should propose paying none. When power comes to the people, as it will do by the SETTLEMENT becoming a PROVINCE, they may, if they think fit, provide for the clergy. What the majority decides upon, the people will acquiesce in; and the mother country will escape the obloquy of having wrought an injustice, and thereby checked and delayed the success of the colony.

EDUCATION.

These objections, however, do not hold in the case of education—that is, in the case of secular and industrial education. By establishing a school in each parish, and placing therein a schoolmaster, you do what I desired to have accomplished in the case of the clergyman. You have placed an educated man in every parish, and thereby opposed an obstacle to that downward tendency which belongs to all new communities. All the people are willing to permit their children to be taught such elementary knowledge as can be imparted in a school. Land, therefore, might, without any danger of an imputation of injustice, be devoted to the purposes of such education. In every parish, a central plot of ground might be set aside for the school—for the house of the schoolmaster—and a lot might even be reserved as a farm for industrial teaching. Besides this, other lands might be sold, for the purpose of obtaining a fund for the purposes of education generally. A wise legislator (and he who founds a colony ought to be a wise legislator) would in an infant society, when he has really the means in his hand, provide amply for a system of education, commencing with infant-schools, advancing upwards to industrial and normal schools, and even to a university. The funds of a people could not be more wisely employed; and the Secretary of State, who in the time of the SETTLEMENT thus laid the broad foundations for the education of the PROVINCE, would deserve and would receive the grateful thanks of the generations who, through all coming time, would inhabit the land. I am not in

this case indulging in a mere flight of the imagination. A system of the species I am speaking of exists in all the New England States, and in New York a still more magnificent provision has been made for the purposes of education. The state legislature has dedicated to that object landed property already of immense value, and which bids fair to be worth many millions annually. In Massachusetts the infant and other state schools are so excellent, that the children of all classes attend them, to the great benefit of all, as the attendance of the children of the rich insures for the children of the poor the best education that can be attained; and the association of the little children together creates among them feelings of kindly sympathy which last through life, and make the people truly brethren.* What these states have done, we surely may do in our new colonies, where the field before us is without obstruction, and an efficient, ample revenue in our power.

* In the "Geography of America," published by the Useful Knowledge Society, in 1841, there are various tables of statistics, very carefully compiled; among them Number XII. relates to Education —I give some of the items.

States.	Permanent School Fund.	Annual Tax for Schools.
Connecticut . .	$1,902,957	
New York . .	1,735,175	$188,384
Virginia . . .	1,590,823	
Ohio	169,460 & lands	an ad valorem tax.
Massachusetts .		163,929
Tennessee .. .	400,000	

I have now before me the twelfth annual Report of the Board of Education in Massachusetts, kindly sent to me by Mr. Charles Sumner, of Boston, and from this I learn that the sum of money appropriated by the State of Massachusetts is much larger —

Section IV.

SYSTEM—WHAT—NEW ZEALAND EXCLUDED—PROVINCES INCLUDED—BRITISH NORTH AMERICA—AUSTRALASIA—SOUTH AFRICA—BOUNDARIES AND EXTENT OF PROVINCES—OBJECTIONS STATED AND ANSWERED—THE UNITED LEGISLATURE—FORM OF—LEGISLATIVE—ADMINISTRATIVE—JUDICIAL—POWERS OF LEGISLATURE—POWERS OF THE ADMINISTRATIVE BODY—POWERS OF JUDICIARY SKETCHED.

From the explanation which has already been given, the reader must have seen that I contemplate something more than the existence of one single colony—something more than the existence of several separate colonies. It so happens that the three divisions of our colonial possessions, of which mention has before been made, are all in different states of advancement, and surrounded by very dissimilar circumstances; but they resemble one another in one particular: they are all so large as to require to be divided, and yet so compact in themselves as each to form one complete country. I shall have, therefore, hereafter to advert to what I may call the peculiar political condition of each, but I now proceed to give a description of the circumstances and arrangements which are and may be made common to them all, and which, indeed, result from that common property of vastness of which I here speak.

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as will be seen by a table placed in the Appendix, and marked (C). A perusal of this report excites in my mind two feelings—one, of painful humiliation—the other, a hope that we also, though it be late in the day, may labour in the right way; put down sectarian opposition, and educate our people in spite of all opposition, whether of interest or ignorance.

It appears to me that New Zealand, on the contrary, is not of a size to need more than one PROVINCIAL government. Though there are three islands, yet the two southern islands are only nominally divided, if I may so speak. The strait of the sea which divides them is so narrow as easily to be bridged, and the two islands are no more divided than Middlesex and Surrey—certainly not more than the Isle of Wight and Hampshire. Cook's Strait, which divides the northern island from the others, is a more marked division, and really separates the islands. The strait, however, is not so wide as the Irish Channel, and now, when steam makes the two shores as near, in fact, or perhaps nearer, than two places on land at the same nominal distance, we need not adopt institutions which, in spite of every precaution, induce a notion of separate interests. We have all of us seen the evils arising from the existence of an Irish, as distinguished from an English legislature. We ought to take warning by that experience, and not plant England and Ireland anew, with a channel between them, in the southern hemisphere. The people who are destined to inhabit those countries will speak the same language, they will enjoy the same institutions, they spring from a common stock, and, while they remain colonies, will probably be subject to the same metropolitan dominion. The institutions which I have already described would be amply sufficient for the good government of this country—the parish, the township, the county organization, will provide all needful security, and so soon as the united population amounts to the number requisite, the islands will constitute a PROVINCE, and have a legislature which will fairly represent the whole country,

and be able completely to govern the people. What I am, therefore, now about to describe in no measure applies to the islands called New Zealand.

British North America, Australasia, and South Africa, are in a very different condition. These are enormous portions of the globe—centuries may pass away, not only before they are settled, but before they are even marked out into colonies—before they are in my language even SETTLEMENTS. Take Australasia for example, as I have before described what I mean by that word. The territory thus designated is as large as Europe: already we have planted several colonies within it. There are already existing therein Sydney, Van Diemen's Land, South Australia, Port Philip, Western Australia, and Swan River—and lately a new colony north of Sydney, intended to be called, I believe NEWCASTLE, has been established. My present plan contemplates, not only the union of these several colonies into one federal community, but also the reception into that union of all such colonies as may hereafter be formed, and become provinces within the territory called Australasia.

So, also, British North America is so vast as to require to be divided. Already, within the territories denominated British North America, several colonies have been formed, and, indeed, communities exist within them, which, though consisting of descendants from Europeans, subjects of England and Christian people, yet are really subject to no one of the governments which have been established by us in British North America, but are at this moment left to take care of themselves, without law, and without any organization. The consequences of such a state of things must be in the highest degree

dangerous and mischievous. The provinces are Canada, Nova Scotia, New Brunswick, Prince Edward's Island—Newfoundland. The bands of people without laws are within the territories of the Hudson's Bay Company, and on the Pacific, north of the Columbia River.

South Africa is likewise so extensive as to need division, and already several colonies exist there: the Cape of Good Hope, and Natal, &c.

These are three separate divisions of territory lying far apart upon the globe: they can never in any way be united, though they are subject to one metropolis. Each division, indeed, may by England be treated in the same way, and according to the same rules—as I shall immediately endeavour to show—but though they be treated in the same way, and may become each a system, still each will be a distinct and separate system. I am about to contemplate them as three separate Federal Unions.

Taking them one by one, I propose that all the colonies in each of them, formed and to be formed, shall be united into a SYSTEM. There will thus be three Systems:—1. The SYSTEM of British North America; 2. The System of Australasia; 3. The System of South Africa.

As in each of these territories a new SETTLEMENT becomes a PROVINCE, I propose that, after proper steps are taken, it shall be admitted into the SYSTEM to which it belongs, and form a Province of that Federal SYSTEM.

As a preliminary to this scheme, and as a preparation for it, the question of what should be the extent of the several PROVINCES which are eventually to be thus united, should be carefully considered. The United

States, which have become, by a fortunate chance, united into one Federal Union, vary greatly in size; and, by this variation, are subject to many difficulties, which, by forethought, might have been avoided. When the colonies were originally planted, all sorts of blunders were committed. Virginia was planted under a charter that gave her a territory almost without limits. As we have already seen, when in 1783 she had established her independence, her boundaries were not settled, and were about to become, not merely a subject of dispute, but not improbably of war. The various charters given by our kings invaded the territories of each other. The charters of the Kings of France encroached on territories ceded by the charters of the Kings of England, and *vice versâ*. The boundaries of New Hampshire were the cause of actual litigation; and we shall live to see much perplexity and mischief arise from the want of precision and accuracy in the description given of our separate colonies in British North America. Between the Canadas and Hudson's Bay, no properly defined line exists. The western and northern limits of Upper Canada have never been stated. The stations north of the Columbia have no boundaries—all is confusion; and mischief must arise, unless an act of parliament shall prudently, and before disputes have arisen and interests sprung up, carefully set out the limits of each colony. At present, there are no difficulties except physical ones. If the matter be neglected, population will advance, and the different colonies will find themselves disputing as to the limits of their several jurisdictions. Nova Scotia and Canada will quickly begin to feel this difficulty. The railroad proposed to be made from

Quebec to Halifax, must bring the question of their several boundaries before the Courts of Canada, Nova Scotia, and New Brunswick. This is the mode we adopt in almost all our proceedings; we never provide against distant disputes, by the predeterminations which common prudence and forethought suggest.

There is, however, a class of considerations very different from these. I mean that respecting the question which I have above stated—viz., what should be the *extent* of our proposed PROVINCES? Should they differ in size from each other? Should they be of different sizes in the different SYSTEMS? Rhode Island bears about the same relation to New York that the county of Rutland does to Yorkshire. Rhode Island sends two members to the Senate of the United States—so does New York. The Senate represents state rights. The House of Representatives represents the people of the United States, and each member represents the same number of people. We shall probably—and, if we act wisely, we shall certainly, be called upon to lay out many more colonies, and all the divisions I am now speaking of; and we ought, therefore, to ascertain what is the most convenient size, where the face of the country is of an ordinary description, for the purposes of government. If there be fine navigable rivers, plains over which roads—more especially railroads—can be easily made, the size may extend very largely without inconvenience. If, however, great mountain chains fill the country, to pass from one part to another will be difficult; so, also, if there be no navigable rivers, and large sandy deserts which drift over and obliterate roads. These circum-

stances form the necessity in each case of actual survey; and the late and continuing experience of the United States must afford us great assistance in this most interesting inquiry.

One rule we might and ought to adopt at once. No land should be sold that is not within the limits of some surveyed SETTLEMENT—that is, a SETTLEMENT of which the boundaries are determined, and mapped as above described.*

Another rule should be, that when two settlements or colonies are side by side, the dividing line should be immediately decided, so that hereafter no difficulty may arise; and if no settlement be begun without being preceded by a survey of the boundaries, none can hereafter arise. There should be no unappropriated land lying between colonies, unless, indeed, there be land enough to form a new colony; conterminous colonies should, in so far as they are conterminous, have the same, and that a surveyed boundary. In this case there would be no unappropriated land lying between them, and no debateable land.

The boundaries of all the existing colonies being in each of these SYSTEMS accurately defined, we should then proceed to consider by what means they may be best united into three great Federal Unions.

But I shall here be met with this question—why should any such union be attempted? Supposing we grant all that you have said as to the necessity of some predetermined rule for the settling and after manage-

* See pages 119, 120.

ment of our colonies, why should we thus unite, and prepare them for independence? Would it not be a safer and more politic conduct for English interests to keep all these colonies separate? *They* would be happy and well governed—and *we* should be secure in our dominion; they no less happy by being separate—and we certainly more secure.

Now I answer to this—that there are reasons, and those I shall in this place adduce,...which on general grounds, in my opinion, call for and justify such a proceeding; there are also, in each case, specific reasons, which I shall separately describe hereafter, when I shall speak of each system by itself.

Every colony ought by us to be looked upon as a country destined, at some period of its existence, to govern itself. There may be, and there are, certain small islands, which, favoured by position, climate, and soil, we have thought it profitable to people and to cultivate, which are so small as to be unable at any time to defend themselves against aggressive foreigners without the aid of England. The islands called the Antilles are of this description—united even, they would be unequal to self-defence, except under very peculiar and very favourable circumstances. But these are exceptions. The colonies which we are founding in America, Australasia, and Africa, will, probably, at some future day, be powerful nations, who will also be unwilling to remain in subjection to any rule but their own. But this withdrawal from our metropolitan rule ought not to offend or wound us as a nation; we should feel in this case as a parent feels when a child has reached unto

manhood—becomes his own master, forms his own separate household, and becomes in his turn the master of a family. The ties of affection remain—the separation is not the cause or the effect of hostility. Thus should it be with a mother country and her colonies. Having founded and brought them to a healthy and sturdy maturity, she should be proud to see them honestly glorying in their strength, and wishing for independence. Having looked forward to this time, as sure to come, she should prepare for it; she should make such arrangements in her system as to put all things in order for this coming change in the colony's condition, so that independence may be acquired and friendship retained. The colony would, in such a case, continue to feel towards the mother country with kindness and respect; a close union would exist between them, and all their mutual relations would be so ordered as to conduce to the welfare of both. In the instance of the United States, a very different course was pursued by us; we fiercely resisted, and resented their desire for independence—we drove them into rebellion—waged with them an unnatural, cruel, and disastrous war, and begat among those who ought to have been, and desired to be, our dearest friends, bitter feelings of active hostility and hate. When, at length, they achieved their independence, years were required before this animosity could be softened; and now, when more than half a century has passed away, they are still our jealous rivals in commerce—often the friends of our enemies—and ready, when a favourable occasion offers, to become open enemies themselves. I say this with pain—I say it,

however, because I believe it to be true, and desire to guard against such an evil result in all other cases in which the same circumstances may occur. With the United States, I wish to see the closest and the kindest ties existing; and that we should frankly, and without any lurking suspicion, resume, not the old relations, but all the friendship and good will which those begat, and which folly, a blind folly, destroyed. But I cannot hide from myself the truth, and I cannot attempt to deceive others. There is, in the United States, an involuntary and unwilling respect for England. They think more of our opinion respecting themselves than that of any other nation in the world—nay, more than that of all other nations; but with all this, they feel jealousy and lurking animosity towards us, which is the mischievous consequence of our own impolitic and unjust conduct. A repetition of this history we ought seriously to guard against; we can best do so by gradually preparing our great colonies for independence, and this can be properly done only by establishing beforehand arrangements which shall be consonant to this new and coming condition.

When the United States found themselves a sovereign people, they claimed all of them separately to be considered sovereign and independent. Fortunately the men who at that moment were at the head of their affairs, were of great ability, accustomed to legislative proceedings, and well versed in the workings of a representative government. The complicated relations of the new States did not bewilder them, though they were sufficient to have confounded all who had not been early trained, and largely experienced in the peculiarities of

such a polity. The great problem which they had to solve was to reconcile state rights,—that is, the interests of the separate states, with federal rights,—that is, the interests of the United States. A more difficult problem was never submitted to any body of legislators; and now, when looking back at that difficulty, every man who can really appreciate it, wonders at the patience, the prudence, the skill, and the forbearance which the framers of the American constitution of 1787 evinced in the performance of their delicate and perilous task. Every American owes to that small band of wise and earnest and virtuous men a debt of gratitude, which time will only increase; and all men of other nations to whom the welfare of mankind is dear, must also feel grateful to them for the great service which they rendered to the peace and good government of mankind. We should not, however, trust again to the chance of such men appearing at the head of affairs during so remarkable a change in the condition of a great nation; and we ought therefore, by care beforehand, so to arrange the separate interests of our separate PROVINCES, as to make them easily unite into one great Federal scheme, and thus preclude the danger of division, and the mischiefs of anarchy.

But are you not enticing these, your united PROVINCES, to desire too early the independence which you thus prepare for; and do you not thus weaken our colonial rule, and pave the way towards an early destruction of our colonial empire? Far from it. The many benefits resulting to the Provinces from their relation to so great and industrious a nation as England, would be the most

powerful tie which any policy could frame. Give them cause for discontent, and then, as the Provinces increase in power, their desire for separation will increase also. Let the connecting link be a strong mutual interest, and we shall in reality have multiplied England—not reared up hostile and dangerous rivals. By my proposed plan, we shall create three great nations of friends and brethren—nations to which Englishmen will go as to their own home—where they will find the language, the manners, the feelings of Englishmen, while the inhabitants of these great Provinces will always look to us to lead them in arts and science. They will share in all that we learn, all that we acquire; our honour will be theirs; our name will be theirs; and we shall then see that magnificent spectacle of which I have already spoken,—viz., England really extending her empire over the world, not as a name, but as a potent thing—an empire, not over barren wastes and howling wildernesses, but over countless millions of Englishmen who have reduced and brought into cultivation a territory which almost encircles the globe. And this, men now born may live to see, if beneficence and intelligence preside over our future colonial policy.

I propose, then, that we should fairly place before our own minds, as a thing to be not merely contemplated, but to be actually performed, the formation, in the three separate countries I have named, of a great Federal union of the several PROVINCES which are now there, and which may hereafter be created in those lands. This union should be so conceived, as to perform, not merely the offices which the existing provinces require,

but to aid, and call into existence new provinces. Its functions should constantly, steadily, and strongly tend to bring into cultivation the whole territories now lying unprofitably waste, presiding over them while needing extraneous support and protection, and receiving them as equals so soon as they can govern and maintain themselves. If we do this, we may see at once arise in Northern America a powerful, increasing, and really English federation, the counterpoise of that other federation, whose mighty wings seem as if about to be unfolded, and then to overshadow the whole of that vast continent, of which already she has acquired but too large a portion. We may see another great Federation arise in the southern hemisphere—a federation of friends —of Englishmen—and so in Africa also. Our blood, our treasure, will not be then wastefully expended in a thankless office, nor our industrious millions here in England be called to give of their substance (which is really needed for their own comfort, and even existence,) to maintain great armies abroad, to protect lands which afford us no return, which are but a wretched home for the few hundreds of people who are now scattered over those wastes; and who are dissatisfied, because without hope; and without hope because they are but the denizens of a pitiful colony, and destined to be domineered over and insulted for the term of their natural lives.

The form of that government which is to unite these separate colonies may be settled without much difficulty, now that we have before us the American constitution. The mode of conciliating the conflicting interests of the separate provinces, and of the united provinces, should

be that which sheer necessity drove the framers of that system to think about and devise. The legislature must be composed of elements which shall represent these interests—and by representing, conciliate them.

The united legislature should consist—

1. Of a governor-general, appointed by the Crown, and removable by the Crown whensoever to the Crown may seem fit.

2. A legislative council, composed of members elected by the *legislatures* of the separate PROVINCES, for *five* years; each province choosing *two* members.

3. A house of assembly, composed of members chosen for five years by the people of the provinces. The census of each province is taken every five years; and it should be made to fall for each and all on the same year; and this year should precede the year upon which the members of the house of assembly are elected. Thus the exact population of each province and all the provinces would be known. Each province to send one member for every twenty thousand inhabitants.

The members of the two legislative bodies being elected only for five years, the two houses are both dissolved on the first of January of every fifth year. On the first of December preceding this January of the fifth year, the election of members for both bodies of the legislature is to take place in the separate provinces; the legislature of the province choosing the legislative councillors, and the people of the province the members of the house of assembly of the united legislature.

In an exposition like the present, I need not enter into more detailed explanations of the mode of election,

or of the qualifications either of electors or of the elected.

I may remark, however, that I have not followed, upon this matter, the example of the constitution of the United States. The House of Representatives in Congress is elected for two years, and the senators are elected for six years; but it has been so arranged that one-third of the whole senate goes out, and that one-third of the senate is elected every second year.

This continued change appears to me attended by evils which more than counterbalance the benefits derived from it. The term of five years does not seem too great for a body of the nature of this united legislature, and the simple renewal of it every five years will ensure responsibility.

The senate of the United States is, however, an executive authority, and shares many of the powers of the executive with the president, and therefore requires to have a continued existence; but to the legislative council I do not propose to intrust such powers; they need not, therefore, be a permanent body.

I do not perceive any advantage to be derived from making the qualification of age different in the case of a member of the legislative council and a member of the assembly. The legal age of majority—viz., twenty-one—will be sufficient in both cases. There is no probability of any person being chosen too soon.

We now come to the important consideration of the powers which are to be conferred upon this united body; and hereupon, and at the outset, I must insist upon one rule of construction, which must be imperative and

without any exception: that is, only such powers as are expressly given are to be considered as belonging to this united legislature. In ordinary cases, when the powers of a legislative body are being enumerated and defined, all power is supposed to be given, excepting those which are expressly reserved. But in the present case the very reverse is the rule. No powers are given except those which are expressly stated. This is a most important distinction, and of absolute necessity in the case of a federal legislature—which has to act in conjunction with other legislatures—which have powers within certain narrower limits, indeed, than those to which the powers of the united legislature extend — but which narrower limits, nevertheless, form part of those of the more extended limits of the united legislature. They both thus come on the same field of action; and there is an absolute need of precision in the statement which describes the powers of the federal legislature, if we hope to avoid strife and litigation.

I shall not here attempt to make any complete enumeration of the functions of the united legislature, but shall content myself with such an indication of the more important particulars as shall give a clear idea of the nature of the authority sought to be established.

The Congress of the United States exercises, with respect to the separate states, most of those functions and that authority, which the imperial government performs and assumes with respect to her colonies. All that regards the intercourse with foreign nations comes under the cognizance of Congress; for to

foreign nations there is but one political entity — one sovereignty known—and that is the sovereignty known as that of the United States. The state of New York has no existence among the nations. There is no comity between the state of New York and them; but her citizens are known to other nations as citizens of the United States. The other distinction—viz., that of a citizen of the state of New York—is a domestic distinction, of importance to themselves and their fellow-citizens of the United States, but to foreigners is uncared for and unknown. All, then, that relates to war and peace, to armies and to the navy, to treaties, and other communications with foreign nations—all that regards treason, and attack upon that sovereignty known to the nations—all these things which appertain to the imperial government of England, appertain to and come under the cognizance of the Congress, as regards the United States; but of this class of powers none will be confided to our united legislature, for the united legislature will, like the legislature of the state of New York or Pennsylvania, be unknown to the nations. There are, however, many things which, even in a colonial condition, may well be confided to one united legislature, as affecting the general interests of the separate states; and of these a rude sketch may here be given.

1. There are two great leading objects which ought to be sought by means of this united legislature, and united government—the one is to extend the colonizing the now wild territories within their dominion, the other is to bring all the separate parts, as they arrive, and

come into existence, together under one system, so as to make them component parts of one distinct and increasing whole.

It has already been said, that the wild land lying within the limits or boundaries of a SETTLEMENT, or PROVINCE, is to be deemed the property of that Settlement, or Province; and, up to this time, all the lands lying beyond these limits I have spoken of, and treated, as the property of the Crown; but just as by the formation of a Settlement, and giving it boundaries, I create a title to all the lands within those boundaries for the Settlement; so I propose to do for the SYSTEM. All the wild lands not included in a Settlement, or Province, but yet within the broad limits of the system, I would consider the property of that system, and allow the united legislature to deal with it for the welfare of the whole SYSTEM. I would confer on the united legislature the power of laying out new settlements under the act of parliament. In this there is no defalcation of power from the Crown, but simply a modification of it. No settlement could be made without the Crown's approval, because every act of this legislature must receive the governor's assent; and he is to have all the right of refusal, delay, and assent, which the governor of the Provinces possesses. The Crown, therefore, really gives away no power. But a body is created, having a powerful and active interest in turning to use the wild territories within their dominion—a body which, in addition to this interest, is likely to be possessed of appropriate knowledge and skill. The power of the Secretary of State for the Colonies to lay out new colonies in the

lands not yet appropriated would still continue. The rule, also, that no lands can be legally sold which do not lie within the described limits of some colony, should still remain in force. This provision would have the beneficial effect of giving all parties an interest in erecting new SETTLEMENTS. Besides this power of determining the sites of new settlements, &c., the supervision of the post-office, and the post roads, should be confided to the united legislature; and under their superintendence should also be placed the militia of all the separate provinces. In South Africa and Australasia, this power is of immediate importance with respect to the savage and hostile natives. The same would be the fact in British America, if settlements were carried, as they ought to be carried, up to the West, and North; and a power to raise and maintain certain bodies of militia, for general purposes, ought to be confided to the united legislature.

To the same end, the power of regulating commerce between the separate colonies of the system, and to impose taxes for general purposes and interest of the whole.

In connexion with this subject is the power of regulating the laws of *Bankruptcy*, and naturalization, and the law regulating banks and banking.

In order, also, to promote the welfare of the whole SYSTEM, the legislature ought to have power to establish and endow universities.

If any law of impeachment were deemed necessary, the united legislature would be an apt tribunal.

They ought also to have power to constitute certain

inferior tribunals, as connected with the system of judicature, to which I shall immediately refer.

The law of copyright and patents, as matters of general concern, should be confided to them.

The act of parliament by which this legislature can alone be created, would do wisely not to determine the question of remuneration or payment of the members, but to leave it to be settled by themselves, by an act of their own.

The times of meeting should be fixed by law, with power to the governor to convoke the legislature upon extraordinary emergencies, of which he must be the judge.

The power of adjournment to be in each house respectively, of prorogation in the governor.

The executive authority is to be in a governor-general, selected and appointed by the Crown. He is to be aided by an executive council selected and chosen by himself, and by two secretaries of state chosen by himself, one to be called secretary of the interior, the other of commercial relations. In the absence of the governor, the senior secretary to act as lieutenant-governor.

The governor-general to be the commander-in-chief of the militia.

[The army to be as at present, entirely subject to the Crown.]

The secretaries of state removeable on the joint address of both houses.

The governor to appoint the judges, the officers of the treasury, customs, excise, militia officers, and generally

all public servants, not commanded to be otherwise chosen and appointed.

The judiciary of this federal government is of the highest importance, and is, in fact, the key-stone of the arch.

The federal judiciary is to be composed of a supreme court,* and such inferior courts as the united legislature shall appoint. The judges to be appointed by the governor-general, to hold their office during good behaviour, and removable on the joint address of the two legislative bodies.

The powers confided to the supreme court would require a most careful enumeration. The words of the American constitution would not suffice, as they are certainly too wide, and might possibly in some instances be found too narrow. All cases of law or equity arising under the constitution itself must come under its cognizance, as for example, disputes arising between individuals or provinces, as to whether the powers of the act of parliament which created the constitution have been transgressed. Questions of litigation arising between two provinces, and also between inhabitants of one province and another provincial government, ought also to be submitted to this federal judiciary. But although there may be a reason for submitting to it a question or dispute arising between a province and an

* There is often much in a name. Men's affections are not seldom under the dominion of names; perhaps, then, this court might well be designated, the Court of Queen's Bench, for the United Provinces of British North America, or Australasia, or South Africa, respectively.

inhabitant of another province, I do not see why, because persons being inhabitants of two provinces happen to have a dispute, their litigation should be submitted to the federal court. If A., living in Sydney, have a claim on B., who lives in Van Diemen's Land, let A. sue B. in the court of Van Diemen's Land; there is no necessity for a federal judge or court to try this question. If a Frenchman claim a debt from an Englishman, he comes and sues the Englishman in an English court. In the same way, and *à fortiori*, the inhabitant of one province ought to sue the inhabitant of another province in the ordinary court of the defendant's place of abode.

The federal court offers an admirable appellate jurisdiction, from the several province courts, and from the ordinary bankrupt courts.

Although an English-born subject possesses all the rights of an Englishman, no matter in what of her Majesty's dominions he happens to be, yet in new colonies the laws respecting naturalization ought to be, and indeed are, very different from what they are in England. This law of naturalization requires to be general, as it affects the whole union, and questions arising upon it, therefore, are properly subject to the cognizance of the federal courts.

Alterations of the fundamental law ought by the act of parliament to be provided for. Conventions by the provinces themselves would be operose, and opposed to our habits Parliament might safely allow such changes to be made at the discretion of the united legislature, requiring only certain formalities and a certain majority; for

example, the formality of the Queen's assent beforehand, as in the case of a bill to tax the people, which assent might be formally communicated by a secretary of state; and also two-thirds of both houses might be required to sanction the proposed change.

CHAPTER V.

BRITISH NORTH AMERICA — CIRCUMSTANCES PECULIAR THERETO—PROVINCES EXISTING—DANGER OF SEPARATION IMMINENT—PLAN FOR THE UNION OF PROVINCES PREVIOUSLY PROPOSED—LORD DURHAM—MEMORANDUM OF PLAN—CHANGES PROPOSED—DESIRES OF AMERICAN POLITICIANS WITH RESPECT TO BRITISH AMERICA—MODE OF DEFEATING THEM—CONCLUSION.

HAVING thus stated those reasons and arrangements which pertain to the general question of union into federate systems—I proceed now to detail some more specific considerations, which belong separately to the systems I have mentioned—and begin with that of British North America.

The provinces which already exist in our North American territories must each be considered separate communities—and we must suppose them to have been each and all of them prepared, as I have already described in the preceding pages with respect to SETTLEMENTS and to PROVINCES.—I assume that their boundaries have all been determined;—and that those of the Canadas have not only been determined, but greatly narrowed. In all of them the population transcends 10,000—and a representative government exists in all. But there is already a very large population scattered over the wild lands that lie in the basins of the rivers flowing north-

ward, and falling into Hudson's Bay. The climate in this interior we have every reason to believe is not so rigorous as that of Quebec—and the land is described of the highest fertility. Of late, discoveries have been made of great mineral wealth on the shores of Lake Superior, and a large and growing population is there requiring the restraints of law; but unfortunately no provision exists—no thought is given to these people—they lie out of the usual routine of the Colonial Office—and everything connected with them is left to chance and to force. The strong hand rules—and every possible atrocity is being enacted, where nominally the dominion of England extends—and where her law is said to be paramount.

When all that I assume to have been, has actually been accomplished, I propose to unite into one federate system the following separate colonies:—

	Population.	
1. Nova Scotia and Cape Breton	199,906	(1837)
2. New Brunswick	156,162	(1840)
3. Prince Edward's Island . .	47,034	(1841)
4. Lower Canada	777,129	(1848)
5. Upper Canada	714,964	(1848)
6. Newfoundland?*	96,506	(1845)

And now the reasons may be stated which justify this specific proposal.

* I have placed a *quære* here, because, though to me it appears evident that Newfoundland by interest is linked with the continent adjoining—yet such may not appear to be the case to the people of Newfoundland themselves: I would therefore give them the option of joining the union if they desired.

No one disputes at this time the assertion, that our provinces in North America must soon be independent. A few years since, and I was nearly hooted out of the land for stating this disagreeable truth. But now the world forgets its own injustice, and quietly and complacently acquiesces.

But when I did make that statement, it was always with the carefully-expressed proviso—if you do not take steps immediately of a peculiar and decided character. The separation of the British North American colonies from England, in itself, never to me appeared a calamity —provided: 1. First, that the separation was *amicable.* 2. And second, that they were not added to the United States, but were formed into one independent federation —governing themselves, and united in bonds of friendship with England.

The extension of the power of the United States to the North Pole I have always considered an event fatal to the maritime superiority of England. Possessed of the St. Lawrence, the United States would, in fact, have no frontier to defend. Her offensive and defensive power would be increased by that acquisition to an extent, that would render her influence dangerous to the general liberty of the world. I seek, therefore, to prevent that acquisition. We cannot do it by doggedly and tenaciously attempting to keep things as they are on the American Continent—but we ought to look forward—and so prepare for the future, as to render the existence of a new confederation not only probable but certain—a confederation which would prove a counterpoise to the gigantic empire and influence of the United States—a

confederation, in which there are really no hostile interests. — No slavery exists there to separate north from south ;—no variety of climate, by producing different commodities, renders necessary different markets, and thus tends to separate interests. The chief products of British North America find their best market in England, or the dependencies of England, and there is, therefore, no jealousy between the separate provinces created by different commercial connexions and necessities. Geographically, they are one people—and may, in despite of their rigorous climate, form by union a really powerful federate community—which, with the friendship and alliance of England, may not only easily maintain itself independent, but constitute a formidable counterpoise to the United States.

If we, however, are determined to consider our colonial dominion immortal;—if we do nothing to relieve the people now living in those provinces from the humiliations of a contrast between their own inferior position and that enjoyed by the citizens of the republic by their side, we shall alienate the now colonists from our rule;—they will seek to obtain independence in the readiest way which offers, and that will then be, by joining the United States as separate and independent states, and becoming members of the republican federation. They will leave us with a hostile feeling—they will leave us probably after a rebellion and a war—they will throw themselves upon the United States for assistance. That assistance will be given, a war with the United States will follow; and whatever may be the valour of our armies, or the skill of our generals, the result is in-

evitable; the whole continent will be violently wrested from our grasp, and we shall remain shorn of our provinces, seriously injured in our means, gasping and bleeding at every pore, with a world made our bitter foes—and without a friend or ally, either in Europe or America. This language I have always held—and in order to prevent such a fatal catastrophe, I have pressed upon the attention of successive colonial ministers the necessity of preparing the colonies for emancipation and independence, not only with respect to England, but to the United States also. They have either been unable or unwilling to adopt or to frame any scheme for that purpose. But I did myself once propose a plan with that end in view—under very curious and important circumstances, but without any success. I now lay it before my countrymen.

The plan, as originally conceived, was in some respects different from that which is now proposed. There are some reasons, however, which induce me to lay the exact scheme itself, in the very terms which were first employed to describe it, now before the world. The circumstances which induced me to propound it were, as I have said, curious and important, and I betray no confidence by relating the secret history connected with my proposal.

Shortly after Lord Durham was appointed Governor-General of Canada, and before he left England, a suggestion came to me, that I should please Lord Durham by waiting on him, and explaining to him my views with respect to the government of Canada, under the peculiar circumstances then existing, more especially in the province of Lower Canada. I had for some years acted as

the agent of the House of Assembly of Lower Canada, was well acquainted with the country and the people, and enjoyed the confidence of their representatives. To this suggestion, however, I turned a deaf ear: when pressed, my answer was, "If Lord Durham desires to see me, and receive what information I can give, the plain, proper mode is to request me to wait on him. But I was not prepared," I said, "to make the world believe that I sought to thrust myself on Lord Durham; and did not intend to give him or any one else the opportunity of saying that I had done so."

My refusal brought the result which, knowing the character of the Governor-General, I was sure would arrive. The late Mr. Charles Buller came to me direct from Lord Durham, saying that Lord Durham was exceedingly anxious to see me, in order to ascertain the views and wishes of those whom I had so long represented in England. I went, and was startled, and certainly not pleased, by the proposal which was made to me by Lord Durham, whom I had never seen before, and whom I was destined never to see again; though I was destined to deal, and not altogether without effect, with some of his doings in his character of Governor-General.

Lord Durham assumed that I, together with all the rest of the world, must be exceedingly interested in his career as Governor-General of Canada:—not meaning that I was anxious for the welfare of the people, but that *he* should be successful; and he proposed to me, without circumlocution, that I should forthwith leave England, transport myself through the United States, and take up

a position somewhere near the frontiers of Canada, but not within them, and put myself into a secret correspondence with him. To this extravagant proposal, dictated by an overweening self-estimation, I gave a peremptory refusal; stating that secrecy was wholly foreign to my nature, and was in this case particularly opposed to my conception of what was prudent, and honest; that my advice —open and disinterested advice—and all the information I could give, were at the entire disposal of the *Governor-General;* that I was really interested in the well-being of my clients; and on that ground, and on that ground alone, what assistance I could give he might command;—but this advice, information, or aid, must be given openly, both for the sake of Canada and myself. I was then asked what my views were—I explained them in detail—would I put them on paper? I at once said, Yes; and forthwith returned to my home, and wrote a paper which now lies before me. It is marked with this memorandum:—

"MEM. Written for Lord Durham just before he went to Canada, by J. A. R."

My plan seemed at the moment so large, and so likely to throw a sort of éclat upon him who should really succeed in executing it, that Lord Durham gave me the strongest assurance of his most sincere approval of the scheme, and of his determination to propose it for adoption. The paper I wrote I begged might be returned after it was copied. It was so; and here is the original plan as I then proposed it.

Lord Durham, on his arrival in Canada, published a proclamation, in which many of the principles of my

plan were hinted at with approval. The newspapers of the country were, however, for the most part, I believe entirely, then in the hands of the Anti-Canadian-party; and this proclamation no sooner appeared, than a storm of disapprobation followed. This disapprobation expressed the feelings of those who hoped to put down and keep down the colonists, and Lord Durham was not a man to brave a newspaper clamour at any time of his life; and no more was heard of the scheme, or the principles which it enunciated, from that day to this.*

MEM. *Written for Lord Durham, just before he went to Canada, by J. A. R.*

All the proposals of the present plan rest upon the following assumptions:—

1. That the extent to which it is proposed to carry reform, is just that which the temper of the English Parliament will permit. It is assumed that the proposed reforms would meet with the approbation of Parliament, but that any more searching or extensive would be rejected.

2. That the supremacy of England and the well-being of the colony are completely compatible.

* In consequence of the proclamation, certain persons came from the separate provinces, at Lord Durham's invitation, to discuss with him the difficult and important subject of a union of them. When they arrived at Quebec, they found Lord Durham too angry with the government at home to pay attention to this scheme, or anything except his own wounded dignity. He dismissed the gentlemen whom he had invited after a *scene*, which at the time was described as almost pathetic.

It will thus be seen, that the proposed scheme does not profess to be the best which, under any circumstances, could be devised for the government of Canada, and our other American provinces. All that is now attempted, is to make the best of existing circumstances —to do all the good which jarring interests and conflicting prejudices will permit.

No reference is here made to the manner in which the present opportunity for legislation has been created; an opportunity exists, and may be used for good or evil. The object of the present paper is to turn it to good. However painful may have been the circumstances by which it was preceded, it is needless here to recur to them. Our indignation as respects the past, ought not to paralyze our efforts for the future: and the best way of providing for future good is, as far as possible, to consider the present the starting point of our legislation, and thus at once and directly to effect all such changes as can be effected suddenly, and by the mere exercise of power.

ENDS SOUGHT TO BE ATTAINED.

The ends proposed are twofold; but, though separate, are intimately connected.

1. The first and main end is to propose such a government as may produce content and happiness in Lower Canada.

2. The second, more extensive but yet subsidiary purpose, is, to fashion a general, or rather federative, government for our colonies in North America; which, while it protects and advances the common interests of

all the colonies and the mother country, shall also peculiarly, in the present state of things, contribute to the re-establishment of order and confidence in Lower Canada.

The whole of the succeeding scheme, as here detailed, is formed with these two objects simultaneously in view. If the scheme fail in attaining either of the two, the whole plan is a failure. No one part is proposed by itself. It is one *indivisible* whole, and is proposed entire, or not at all.

GENERAL OBSERVATIONS.

British North America is, in fact, the whole continent of North America north of the boundary which separates the United States from our territories, excepting only that small portion which is claimed by Russia.

Of this enormous tract, only a small portion is even formed into provinces. The territories of New Brunswick, Prince Edward's Island, and Nova Scotia, are known and defined.* But the limits of Lower Canada and Upper Canada, to the northward and westward, have hardly been deemed worthy of a passing thought. Still, fixing the vague limits of their separate territories where we will, an immense, important, and almost unknown tract remains yet to be converted into provinces. At present, it lies like the wild lands of the United States before they become territories. But the United States have wisely, and with great forethought, provided

* Excepting only in so far as this provision is disturbed by the American boundary question.

for these now wild tracts becoming gradually, and by due course of law, constituent parts of their mighty empire. Each tract of wilderness, as it becomes a territory,* has its limits carefully defined. Its inhabitants are made subject to law; and when they reach a certain number, they may, upon certain stated conditions, join the Federal Union. We, in North America, have done nothing of this sort. We have left the limits of both Canadas so vague and undetermined, that disputes are certain, whenever the question of their boundaries shall be agitated. No provisions have been made for the formation of new and separate provinces. This tract, nevertheless, stretches to the Pacific; and the shores of that sea are destined to be the site of great nations, and the birth-place of a mighty commerce. Why, then, do we so neglect our own English interests, and the interests of all those who are to be the future citizens of that immense territory now called British North America, as not to look beyond the present boundaries of our present provinces,—as not to provide for the creation of new ones,—as not to do this upon one general and comprehensive scheme, which shall wisely regard the future as well as the present hour? This is no wild or idle, visionary consideration. The Americans are now looking anxiously to their western coasts, and contemplating a new commerce with Asia from their western border.

* The word Territory here has a technical signification. It is a tract of land inhabited by citizens of the United States, but which tract is not yet admitted as a *state* into the federal union. Thus you have the territory of Arkansas. Lately, the territory of Alabama, and so on.

We, who have an empire already in the East, ought not to be behindhand in forging the links of this great chain of commerce. To do it effectually, we must, like the Americans, look forward to the indefinite increase of our *federate* communities within our American territory, and provide beforehand wise regulations, by which such new communities may be provided with laws, with protection, and *with definite limits*. Our great error in the formation of colonies has always been, an utter disregard of their limits. We have looked upon the wild lands as so much waste, to which neither time nor labour could give value. We have consequently lavishly thrown away the best means of improvement, and most successfully planted the seeds of future discord. The practical result of these observations, here and for the present purpose, is this,—He who seeks to form a great and comprehensive plan, by which British North America may be rendered the seat, in future times, of a powerful and happy people, must, 1st, carefully consider and accurately determine the limits of the existing colonies; 2, He must frame some scheme for the division into provinces of the land or territory remaining unappropriated; 3, He must also frame some general plan of government for the existing colonies, and provide for the reception into the federative union of all such future provinces as may arise within British North America.

MEANS.

The best, and apparently the only mode of attaining the ends above proposed seems to be the following:—

1. To provide such a special government for each

colony or province, as will enable the inhabitants thereof exclusively to control their own peculiar or local affairs.

2. To provide such a general or federal government for all the provinces in British North America, as will control and regulate all matters which are common to all, or to some two or more of the existing or future colonies.*

The supremacy of England or the metropolis being maintained by means of a governor appointed by the Crown for each separate colony, and also by a governor appointed by the same authority for the federal government: These governors forming integral parts of the legislatures of the colonies over which they preside, and having a veto upon all legislative acts.

For the purpose of the present paper it is necessary, of all the special or provincial governments, to consider only the case of Lower Canada. By describing one provincial government, and its relations with the general or federal government, a sufficient illustration will be afforded of all the important particulars of the scheme before us.

GOVERNMENT OF LOWER CANADA.

All our colonies in North America, Lower Canada excepted, are peopled for the most part by persons speaking the English language; and it is the fashion to consider persons who speak the English language as bound together by a peculiar interest, called the English

* The colonies which are contemplated as composing the new federal body are Upper and Lower Canada, Nova Scotia, New Brunswick, Prince Edward's Island, (and perhaps Newfoundland.)

interest. For the present purpose, it may not be necessary to expose this idle fallacy at any length, still it may not be unprofitable to explain the classes of interest which do really exist.

In every colony, reference being had to the relation with the mother country, there will be found under the most favourable circumstances, two classes of interest peculiar to colonies, and common to all of them, viz.—the interest of the metropolis, as opposed to and differing from the interests of the colony. It is not meant by this to be asserted, that this opposition of interest may not be more than compensated by the advantage mutually derived from the colonial connexion, still it is true that there is a colonial as opposed to a metropolitan interest, and that this opposition exists in every colony. This opposition exists, no matter whether the language of the metropolis and the colony be the same or not. Thus in Upper Canada, in New Brunswick, in Van Diemen's Land, in New South Wales, there is—there must be—a colonial interest opposed to the interest of England. It is a necessary result of the nature of things, and in this sense, and only in this sense, is there in Lower Canada an English interest as opposed to a Canadian interest.

But in Lower Canada, it appears that above three-fourths of the whole population are of French origin, and speak the French language. The remaining portion of the population, composed of heterogeneous materials, being English, Irish protestants, Irish catholics, Scotch, Germans, Americans, are all lumped together, and classed as English, and called the English party, having English interests. Clear it is, that in the correct sense

of English interests, that is metropolitan as opposed to colonial, these parties cannot be said to have English interests. They are, or most of them are, colonists—intending to remain in Canada, and have interests identical with those of the other colonists, whether they speak French or English. Their interests as colonial are opposed to English or metropolitan interests, just as much in the case of the English inhabitants as of the French Canadians. What then is really intended when the words English party and English interests are used in Lower Canadian disputes? Just this: a small body of persons in Canada, as elsewhere, desire to rule over their fellows without responsibility. In order to obtain this, their desired object, they seek to acquire the support of the Colonial Office—and naturally take advantage of every circumstance which the nature of the case permits, to conciliate the favour of the all-powerful colonial secretary.* Lower Canada afforded an excellent pretext—an admirable means of deceit. The population is divided into English and French. The French are the overwhelming majority—the parties really entitled to the power of government—consequently, the natural opponents of any set of persons seeking exclusive dominion in Lower Canada. Advantage has been taken of this state of things. Those desiring exclusive dominion have pretended exclusively to English feelings—have pretended to be the advocates of the English in Canada, and have thus endeavoured to sow dissension, where in reality no opposition of interests existed. The existence of French laws has been used in the same way,

* By colonial secretary. here is meant secretary of state for the colonies.

and to the same end. Thus by recent circumstances, the old prejudices of English and French have been revived: and for base party or rather personal purposes, the most ridiculous prejudices, the worst passions have been resuscitated, and discord created where, if men could but see their own interests clearly, they would behold only reasons for strict and perfect alliance.

The legislator who seeks the happiness of Canada must himself be superior to this wretched and vulgar feeling;—he must be able to appreciate the policy of those who have blown the coals on this occasion; and to distinguish between those interests which are really English or metropolitan, and those narrow sinister interests which have assumed the name, without acquiring the character. The sinister interests in Canada which have assumed a favoured name, are nothing more, nothing less, than the sinister interests known all the world over as those of the minority—seeking to domineer by force or by fraud over the suffering majority. In every country they who advocate these views, endeavour to grace them by fine names, and fine pretences. In all countries, however, the end is the same, but the pretences differ: and that end is power without responsibility.

The question to be now answered is the following; in what way, by what form of government, can the two interests—viz., the metropolitan, and the colonial be placed in such relation, as that both may be properly provided for, and a fair and equitable compromise be effected? The answer given in the present paper is the following description of the government proposed for Lower Canada.

The government so called consists necessarily of three parts:...

1 The administrative.

2 The legislative.

3 The judiciary.

It is proposed that in Lower Canada the administrative body should be composed of two parts:—

i. A governor to be appointed by the Crown.

ii. An executive council to be appointed by the governor. The council to consist of not more than five councillors.

Into a detail of the administrative powers of the governor it is not now necessary to enter; and the more important functions proposed to be exercised by the executive council, will come to be mentioned under a different head.

The only question now necessary to be raised is the mode of paying the governor.

It is here proposed, that the amount to be paid by the colony should be determined by the colonial legislature—that the salary should be fixed for six years: and that within that period it should not be subject to increase or reduction.*

The same proposal is made with respect to the executive councillors.

It is proposed that the legislative body should consist of three parts, with the annexed functions:—

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* The plan I have proposed for the civil list of the PROVINCES is a *decennial* appropriation; and this would, I think, be a safer course. [1849.]

First of the governor, who should have the power—

i. Of convoking extraordinary meetings of the legislature..

ii Of assenting or objecting, without assigning cause, to any legislative enactment.

iii. Of laying before the assembly, by speech or message, as to him shall seem meet, his views upon the general condition of the province, and on such matters respecting which information may be asked by the Assembly.

iv. Of reserving all BILLS for approbation by the colonial Secretary.

Second, of the executive council.*

The legislative functions of this body to consist solely in the revision of the legislative measures of the Assembly.

All legislative bills passed by the assembly should be sent to the council, who may alter and amend any measure, but not reject it. They should be bound within a certain period to return every bill to the assembly altered, or amended, or untouched, as the case may be. This single revision to constitute the whole of their legislative functions.†

Thirdly, of an assembly, respecting which body the following are the most important matters:—

1 Manner in which it is to be constituted.

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* [1849.] It will be recollected that my present proposal is, that two legislative elective bodies should constitute the legislature. See above, p. 146.

† [1849.] This provision was intended to conciliate the hostile feelings of that day.

2 The extent of the control to be exercised by it over the revenues.

3 The term of the assembly's existence.

4 And lastly, as to the time of their meeting and prorogation.

As regards the first point there seems no need to depart from the existing state of things, except that the ballot ought to be introduced.

Any attempt to alter the character of the present assembly, by changing the elective franchise, or the qualification of the elected, would prove utterly useless. The overwhelming majority are French Canadians; they possess the land of the country; and if the franchise be narrowed by raising the qualification, the only result would be to render still more exclusively French the House of Assembly. The poor of Canada are emigrants from Europe; and the consequence of such an attempt would be to exclude all those from the exercise of the franchise. The rich English are but a handful.*

2 Experience has shown, that if any portion of the expenditure is to be defrayed by the Assembly, all must of necessity be subject to its control. It is proposed, therefore,—and on this too much stress cannot be laid, —to give up, without any reservation or subterfuge, the whole provincial revenue to the control of the Assembly. In this it is intended to include every portion of the provincial revenue, no matter from what

* [1849.] Lord Sydenham attempted to introduce a system of corruption and rotten boroughs. He died just in time to save himself from an ignominious defeat. The present parliament proves how accurately I judged of events.

source derived—customs, rents, Land and Timber Fund, &c.—everything.

It is idle to attempt to make a distinction between net and gross revenue. If you subject the revenue at all to the supervision of the assembly, you do so wholly, and any half doing of what ought to be done frankly and fairly, is but a pitiful and short-sighted policy, worthy, indeed, of those who have hitherto governed the colonies, but utterly unworthy of any one who pretends to the character of a far-sighted statesman.

It has been proposed by some to reserve a portion of the revenue, and to place it wholly beyond the control or inspection of the Assembly. This scheme, however plausible may be the reasons by which it is supported, is a dishonest one. It is a side-wind attempt to escape from responsibility—a specious method of keeping the executive free from wholesome control. All that is needed in this line has been conceded above when it was proposed to give the governor a salary permanent and fixed, (see also the provisions hereinafter stated for the payment of the judges,) and to provide the same for the executive councillors. Anything more than this ought not to be desired by the legislator. Responsibility, we all know, is not pleasant; but as pleasure to the governors is not the end of government, we must even put up with the evil.*

3 The term of the assembly's existence comes next

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* [1849.] All I wish here to remark is, that the report of Lord Durham, so called, was written long after this paper was in Lord Durham's possession.

to be considered. At present, or rather previous to the late act, the parliament of Lower Canada might exist for four years; and the governor, like the king in England, could call, prorogue, or dissolve it when he pleased.

It is proposed now, however, to shorten the duration of the parliament—to make it *triennial;* to take away the power of prorogation, and dissolving the parliament, from the governor, and to make the sittings of the legislative body as much as possible the result of the predetermination of the law. For example, thus:

Let the election of the assembly take place regularly on the 20th of September of every third year, commencing, say at 1840. In the year 1843, on the 20th of September, a fresh election would take place; and the governor ought not to have the power of dissolution within that period.*

4 The session of the provincial parliament ought to commence at a stated period—viz., 1st of November in each year, and to continue till the 1st of May, if the house be not prorogued by the governor before that time, on request of the house. But of necessity the session ought to end on the 1st of May, if no such prorogation have been requested.

The house not to have the power of adjourning more than one week at a time.

This legislative body, thus constituted, ought to possess all powers that are not expressly conferred on the federal or general government. The difference in

* [1849.] My present plan is stated above, p. 146.

this respect between the local government and the general one, may be thus expressed: The general government has no power not expressly conferred on it; the local governments lose no powers not expressly taken away.

Within the limits of each separate colony, the local government ought to be deemed sovereign; except in those cases in which their powers have been expressly taken away, or controlled by the powers of the general or federal government. Much confusion, dispute, and litigation would thus be prevented, while no real danger would arise to the supremacy of England. For it should be recollected, that the power of parliament must, while we have power to enforce the commands of parliament, over-ride every other. If we lose this power of enforcement, we need not be solicitous about the name under which the colonies may determine to be independent. Further, no law can pass without the direct sanction of a crown officer, so that in fact, this proposed sovereign body includes the Crown of England as a constituent part. Any danger from this proposal seems wholly illusory.

The whole of the present judiciary of Lower Canada requires complete revision; no department more loudly calls for reform, and in no department is reform so difficult. In Canada, as in England, the giant grievance is the law and its administration. In Canada, as in England, the great obstruction to reform is ignorance, supported, and that stoutly, by sinister interest and prejudice. In no case could the extraordinary powers vested in the Governor General be so beneficially em-

ployed, as in thoroughly remodelling the whole judicial establishment of the country, and in laying the foundation at least for a complete revision and codification of the law. It would be difficult to find in any part of the world, a system of law more confused, uncertain—more completely buried under learned rubbish—than that of Lower Canada. Great ingenuity has been employed, to weave into one tangled and inextricable mass of confusion, the different systems of France, Rome, and England. This wonderful mess has received its final excellence from the conjoint labours of the Imperial and Provincial Parliament, aided by the labours of the provincial judges. The result has been, that now, nothing short of Omniscience can possibly divine what the law intends. Added to this happy state of things, as respects the law itself, is the mode in which it is administered. If the decisions of the courts could be obtained easily, cheaply, and quickly, most of the mischief of ambiguity and confusion in the law itself would in process of time be avoided. But unfortunately, the proverb of the law's delay is true in Canada. Justice is there dilatory, uncertain, vexatious, and dear. Nothing but a searching reform, a complete removing of the present system, before any attempt to reconstruct a new one, will afford a chance of benefit. This reform, however, cannot be effected without the concurrence of those in whom the people have confidence. Justice is that which the people believe to be justice, so that if by the stroke of an enchanter's wand, you tomorrow were to create a perfect system, you would have effected little good unless you could persuade the people, that your system was a just

one. Unfortunately, the prejudices and the interests of the lawyers stand in the way of law reform, while by lawyers alone can such reform be effected. Still we ought not to despair. The code of Louisiana bids us be of good cheer; and there is no reasonable cause for believing that Canada cannot, like Louisiana, furnish enlightened and patriotic jurists to reform her defective laws. If the Governor General evince earnestness and steadfastness in this great cause, he will soon find assistants. Let him at the outset propound a scheme of judicial establishments, which shall attempt to bring cheap and expeditious justice to every man's door—let him openly invite criticisms and suggestions—let him appoint a commission of inquiry composed of the leading men of the country, and he will find difficulties successively overcome, which at the first sight appeared almost insuperable.*

The inquiry ought to be two-fold—

The first and immediate object ought to be to provide an efficient judiciary.

The second, to revise the law. *Revising the law* being intended to signify, ascertaining what the existing law is, and placing it in lucid order; and where the enactments of the positive law are deemed faulty, suggesting specific alterations, which alterations ought to be submitted to the consideration of the legislature.

When the judicial establishment is properly organized

* [1849.] Lord Durham was about as capable of understanding these suggestions as I am of reading Cherokee, of which I do not know the letters; indeed, I do not know whether there are any Cherokee letters.

two questions arise, to which past events have given a peculiar importance—

1. How are the judges to be paid?

2. How are the judges to be made responsible?

Two modes, among others, may be suggested of paying the judges, either by a fixed salary for a fixed period of time; or, adopting the American method, giving each judge a fixed salary, which cannot be increased or diminished during his continuance in office. The first, in the present case, seems the better plan. Fixed periods of revision, say every ten years, create a feeling of general responsibility, without infringing in any particular case upon the independence of the judge. There is much talk of the danger of subjecting judges to the dominion of a popular assembly. The fear, for the most part, in this matter is assumed, being one of the many devices employed for the purpose of warding off responsibility. What there is of truth, however, in the suggestion is sufficiently guarded against by making the salary not of annual, but ten years' duration; and a wholesome degree of control is still retained, by making the time of revision, though distant, certain.

2. Responsibility on the part of the judges ought further to be increased, by making them liable to impeachment. At present the judges in Canada are appointed by the Crown; hold their offices during pleasure; receive their salaries year by year, and are not answerable before any legal tribunal for any misdeeds which they may commit as judges. This system ought to be wholly altered.

1. The judges, though still appointed by the Crown, ought to hold their offices during good behaviour.

2. Their salaries ought to be fixed by the assembly for a certain fixed period, say decennial.

3. And a tribunal ought to be created to receive impeachments promoted by the House of Assembly. (In the scheme of a federal government, a tribunal for this purpose is provided.)

In every judicial system, attention is usually too much confined to the superior judges; and yet if we weigh the importance of each class of judges in the balance of utility, it will be found that they who determine the small but numerous cases of the poor, hold by far the most important office—an office, too, which, while it is thus important, too often, from its apparent insignificance, escapes all real responsibility. A local court which settles the small disputes of a small neighbourhood—little debts and little quarrels—seldom attracts the attention of the public. The great safeguard, publicity, in short, is here wanting—and it is difficult to supply its place—consequently, the following questions respecting the judges of the local courts become of great, nay painful importance.

How are they to be appointed?

How to be paid?

How to be made responsible?

It will be discovered that the real answer to these questions must be given by means of an *appellate* court. If an appellate jurisdiction be wisely framed, much of the difficulty connected with the insufficient responsibility of

local judges will be overcome; and all that remains yet to be conquered may be fairly brought under control by means of the bodies hereafter to be spoken of, as the means of local government. Every local judge, though not elected by the people of the district, ought to be *removed*, on petition from the majority of the inhabitants.* If, for local purposes, the inhabitants be represented by any body of persons, to that body the power of petitioning for the removal of a judge ought to be confided.

LOCAL GOVERNMENT.

Into the history of the many attempts made by the House of Assembly of Lower Canada to introduce a popular system of local government, it is not now necessary to enter, further than this—every attempt has failed, and Lower Canada is now without anything like county or district government. The necessary consequence has followed; the vital interests of the country have been neglected; improvements which, across the border, are of daily occurrence and easy accomplishment, linger on in Canada at a snail's pace, and require to effect them a continuous energy, and patience, and sacrifice, which can seldom be found, and ought never to be counted upon. A comparison between Maine or Massachusetts and Canada, will tell the history of this struggle better than any words here; such a comparison may also suggest the true remedy for the evil. The

* [1849.] I think that this had better be decided by the legislature. If they address the crown against a judge, he ought thereupon to be removed.

habits of the Lower Canadian people will be found very similar to those of their American neighbours; the circumstances by which they are surrounded are the same, *and their feelings are very similar on all matters of a political character.* Nothing that could be done would have so powerful a tendency to create confidence in the present extraordinary government,* as an honest and well-directed attempt to frame a scheme for a popular local government throughout the province. The feelings and wishes of the people ought to be consulted. The laws which their faithful representatives passed ought carefully to be considered. A commission, formed of men in whom they (the people) have confidence, might be empowered to draw up a scheme, and this local government might immediately be put into action, to the great benefit of the whole community. When the people again have power in the legislation of the country, they will of necessity resume the power of revision; but at the present moment no mischief could possibly arise, and incalculable good might be effected, by the immediate introduction of local administration and local courts.

THE GENERAL FEDERAL GOVERNMENT.

The general government ought to consist of three distinct parts:—

* [1849.] Lord Durham fancied himself a dictator, and was surprised to find the English parliament inquiring whether his acts were legal. His powers were extraordinary, though not without limit; and as he and all his advisers were utterly ignorant of law, we need not be surprised that he, with his notions of his powers, soon blundered into illegality.

1. Administrative body—viz., a governor-general to be appointed by the Crown, and a council appointed by the governor.

2. A legislative body, to be appointed by the several provinces, as hereafter described.

3. Judiciary, to be the joint appointment of the administrative and legislative bodies, as hereafter described.

GENERAL REMARKS.

The first great difficulty which suggests itself in the formation of this constitution, is that which exists in the mere formal description of it. Great accuracy will be indispensable; great mastery over language, and great jurisprudential skill. The government ought to have no powers not expressly conferred by the Act creating it. Nothing must be left to implication; what is not granted is excluded. It is evident, then, very great care must be taken to include all the powers intended to be conveyed, as well as to avoid including such as were not intended so to be given.

The next point which arises for consideration is—how ought such a document to be ratified? It is clear that an Act of Parliament will be needed. But this preliminary inquiry ought to be considered. Should a convention be called of the various provinces, and a plan submitted to them for their consideration and amendment? or, should a plan be framed at once and passed into a law, leaving it as an option to the several provinces to join it?

The latter course would appear the more practicable

one. The following is the course which appears to be the easiest.

Frame a plan for the federal union of Upper and Lower Canada—*make this imperative*—and allow the other provinces to join if they think fit; exclude them from the benefits of the union if they do not join.

Respecting the Governor General's powers little need be said. They ought to be, as respects the general government, the same as those of the separate provincial governors with respect to the provincial government.*

An Executive Council, of the same description as that above explained, would be needed for the Governor General, with the same powers annexed.†

The legislative assembly has many difficulties connected with it; and the first that arises is, How is it to be chosen?

In the federal government of the United States there are two legislative bodies. The one, viz., the Senate, representing the separate sovereign states of the union; the other, the House of Representatives, representing the population of the whole United States.

It is not, however, proposed in the present plan to have two bodies, but one only, and the questions that arise are as follow:—

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* The whole legislature is composed of the governor, executive council, and assembly, as in the case of the separate provinces. It is not necessary again to go over the explanation.

† [1849.] The mode of creating a second legislative body, and making it represent the PROVINCES, supersedes this part of my old scheme. (See p. 176.)

1. Ought the separate provinces to send an equal number of representatives?

2. Ought their representatives to be elected by the state legislature or the people?

Prince Edward's Island, New Brunswick, and Nova Scotia, do not altogether possess so large a population as Lower Canada—are they, nevertheless, to send each the same number of representatives? The following plan proposes to meet this difficulty in this fashion—

1. Let every province, by its House of Assembly, send five members.

2. Let a census of the population of each colony be taken; and for each 50,000 inhabitants, let there be sent by the House of Assembly one additional member.*

POWERS OF THE GENERAL FEDERAL GOVERNMENT.

It must be carefully kept in mind, that the general government is to possess no power not expressly conferred on it. The necessary consequence is, that a very accurate and full enumeration of these powers must be contained in the instrument constituting this government.

It should also be remembered, that this government is a *federal*, and not a *general* government, in the strict sense of the latter term. A general government would override all subordinate ones; all the local governments would then bear the relation of corporations to the general government, and not that of separate and peculiar governments. This is a vital distinction, and, if not

* [1849.] This suggestion comes very near my present plan.

attended to, confusion will follow. For example: if the people of Upper and Lower Canada should believe that the federal union here contemplated was, in reality, such a union of the two provinces as would supersede their local governments, they would be opposed to the whole scheme. Whereas, if it were clearly shown to be a federal union—a government created merely to settle common matters — matters expressly confided to its management—then, in place of opposition, there would be great interest felt in its favour.

It should not, however, be supposed that a federal government is to act through the subordinate legislatures. Its action on the whole population must be direct, and through its own officers. If the action were by means of the subordinate legislatures, the consequence would be, that those legislatures would be constituted judges, in fact, of the wisdom of the conduct of the general federal government, and when it pleased them, they would oppose it. To prevent this, a direct action on the people by officers of the federal government will be found absolutely necessary.*

ENUMERATION OF POWERS.

All matters relating to peace and war are beyond the consideration of the federal government. The powers connected with these subjects are in the hands of the metropolitan government, and of themselves are sufficient to mark and maintain the supremacy of England.

* The first American government split upon this rock. See the Federalist.

No attempt will be made here to enumerate the powers which ought to be confided to the general government. The principle upon which they should be selected need alone be stated. The colonies have many matters which affect the common or joint interests—these, if possible, should be brought under the general control. Such, for example, as the regulation of the circulating medium, bankruptcy, inter-communication, *post-office*, *vice-admiralty*, (perhaps, as a means of general defence, the militia,) and many matters relating to trade generally. These might well be subject to general control, and great benefit would be the result.

Among the most important of the functions of the federal government are those of the judiciary.

The points for consideration are—

1. The judicial establishment—its form, and mode in which it is created.

2. The field of its jurisdiction.

There should be a superior court, to be composed of one (or more) judges.

And throughout the country there are needed certain inferior tribunals, acting in subordination to the superior court.

The judge (or judges?*) of the superior court ought to be appointed by the governor, and sanctioned by the Assembly, or *vice versâ*, recommended by the Assembly, and appointed by the governor.

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* A query is put to this, because it is a received maxim with a certain class of jurists, that single judges ought always to constitute a court. *Bentham* presses this point under the phrase *single seatedness*.

It may hereafter be found that inferior courts are needed; it is certain that they will be so. The judges of such courts must receive their powers *direct* from the general government.

The supreme court, among other matters subject to it, would have the following:—

1. Disputes arising between separate colonies.
2. All questions involving an invasion upon province rights, or invasion upon the rights of the general government.
3. Impeachments of judges and other officers preferred by the province legislatures.
4. Piracy?
5. Treason?

GENERAL REMARKS.

A judiciary of this sort would be of absolute necessity to prevent the federal government transgressing the limits of its dominion, and converting the province legislatures into mere corporations. The mode in which all questions involving this delicate inquiry would be tried, would be in the shape of a suit between individuals, so that no great political movements would be effected by each decision. (See, on this head, de Tocqueville, who on this point makes some judicious observations, though generally his book is the book of a system-monger of the last Parisian fashion.)

It has not been thought necessary to go minutely over the several points already touched when speaking of the Lower Canadian government; such, for example, as the time of the assembly's meeting, dissolution, prorogation,

&c. The same principles govern both cases, and repetition is unnecessary.

Neither has anything been said of the *place* of holding the sessions of the General Assembly. These are all inferior topics, and best settled on the spot. However, Montreal, by common consent, seems to be the spot which ought to be selected for a general government.

Subsequent consideration has very little modified the views I entertained in 1838; but the time that has elapsed has greatly changed the opinions of my countrymen. I, at that time, was marked as with the brand of Cain, and was obliged in all I proposed, to bear in mind, that I was addressing men who listened with reluctance, who were really ignorant of the actual condition of affairs, and to whom interested people were daily bringing false accounts and holding out false hopes. I therefore was at every step compelled to ask myself, will this proposal have any chance of success? I might have spared myself the trouble. One beneficial reform was just as likely to succeed as another—none had the least chance of favour. Now, however, things are changed. The Colonial Office has been fairly beaten in Canada, and Canada is on the high road to independence. This they who govern in the dark nooks of that favourite resort of tortuous politicians well know: they are perfectly aware of what I am now stating, and they sit with folded hands, content now that Canada cannot longer be

continued as a field of Colonial Office patronage, to let her slip from our dominion, and become an integral portion of the United States. Talk with any of the politicians who, in 1838, would have been well pleased to have indicted me for high treason, and learn what they now say and think: "It is quite clear that independence must come—and soon, though we cannot exactly say when. And, in truth, why should it not?" they inquire. "The parliament of Canada, with responsible government is really independence?" Why she should not be independent in the sense they mean, *I* well know. She should not, because she ought not, for England's sake, to form a portion of the United States. We have seen what American statesmen have done in the south towards an unoffending but weak neighbour. They have stripped Mexico of her fairest provinces—waged with her an unjust war, under all sorts of false pretences, but really, for the sole purpose of extending their territories, and obtaining safe and commodious harbours in the Pacific. They will not be backward to foment disputes between England and her colonies if there be any chance of adding those colonies to the Union. The language which the statesmen of America are accustomed to employ when speaking of Canada, saying, "they have no desire to have any addition made to the Union on that side," is as hollow as that which they employed respecting Texas. *All* politicians now in America are willing, many are intensely anxious to obtain Canada. The large addition to the south, made of territory in which slavery is not prohibited by the constitution, has given to the slave states a chance of increasing their

power, by establishing new and slave-holding states, and recovering their preponderance in the Union. The anti-slave party, therefore, seek for more non-slave-holding territory and states. In Canada and all British America, there are territories and communities of this description. The whole northern and abolition parties are eager to add Canada to the Union. In their self-denying protestations I put no faith. They have now precisely the same wishes and feelings as those which influenced their forefathers in 1774 and 1776. The statesmen of the united colonies viewed with jealousy and suspicion the first Canada act passed in the fourteenth year of the reign of George III., which they described as part of a scheme "for abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies."* And when they constituted themselves a confederation, they carefully provided for the reception of Canada. "Canada," says

* This is a paragraph in the celebrated declaration of American independence, 4 July, 1776. What by American politicians is called the Missouri compromise, has made the interest of the abolition party in the acquisition of Canada stronger than ever. When Missouri came to be admitted as a state, the question arose, should slavery be permitted in the new state? This question nearly severed the union; but a compromise was made by the opposing parties, by which a line drawn at thirty degrees thirty minutes of north latitude was made the line of demarcation. Slavery was not to be permitted in any state formed north of that line. If a state was formed south of that line, the question of slavery was open, (see the message of President Polk on this subject;) all territory, therefore, acquired in the north added strength to the abolitionists.

the ninth article of the Act of Confederation, "acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and be entitled to all the advantages of this Union. But no other colony shall be admitted to the same, unless such admission be agreed to by nine States." What the Americans desired when this confederation was passed they desire now. I look, therefore, at the apathy of our own statesmen with alarm—seeing clearly that not only is Canada and all North America lost for England, but that these provinces will be added to the United States, unless the public mind of England is roused by having the real state of things exposed—the difficulties laid bare—and also the mode pointed out by which the impending mischief may be avoided. The time for effecting this great object is not yet passed, though the difficulty is greater, and the benefit likely to result from it not so certain as when, in 1838, I pressed the subject upon Lord Durham's consideration. A bitter feeling of animosity has been created among a large portion of the Canadian population, just that portion upon whom England might have placed her chief reliance—viz., the French Canadians. The population speaking English, have among them many persons coming from the United States, and entertaining the opinions, political and social, of the citizens of that republic. The population of Upper Canada, all by degrees assimilate to that of the United States, and they will be the first to seek a union with the republic. The French Canadians are devout catholics—their literature is the old literature of France, and they have no sympathy with the active, stirring, go-a-head American. Had we treated them

with common justice they would have remained contented under our sway; and being as gallant a race of Frenchmen as ever existed, they would, as they have done before, still fight side by side with us to repel American aggression. By care and fairness, the affections of these people, I hope, may be regained; they would form a great item in the federal union I have proposed, and that federal union, by giving dignity and hope to all who form a portion of it, would effectually check the tendency of Upper English Canada to Americanize—would knit Nova Scotia, New Brunswick, Prince Edward's Island, and Newfoundland, into one powerful confederation, which would for centuries be a bulwark for England, and to all time a check and counterpoise to the advancing power of the United States.

Such, then, is my plan for British North America. I contemplate an extension of our dominion across the continent; the formation of new States immediately north of Lake Superior, where copper mines of unexampled fertility have, during late years, been discovered. Besides this, the fertile lands which lie on the basins of the rivers which flow into Hudson's Bay, and to which a population is daily hastening, by my proposal would be at once brought under rule as a SETTLEMENT; and thus a new life would be inspired into the premature decrepitude of Canada. Let her statesmen feel themselves the rivals of those of Washington, and able to meet them on equal terms; and then in Nova Scotia, in Lower Canada, in Upper Canada, in the new States that might immediately arise on their long frontier line, and also beyond the Rocky Mountains north of the River Columbia—you would soon see them with expanded

views and daring conceptions, the really formidable opponents of that encroaching republic which is destined to usurp dominion over the whole continent unless checked and circumscribed by a spirit as bold and free as her own. That spirit we may awake, by calling into existence a great NORTHERN CONFEDERATION OF BRITISH AMERICAN PROVINCES.

I have now accomplished the task I proposed at the outset. Australasia and South Africa deserve and require a careful inquiry into their present condition, and might need specific provisions to meet peculiar exigencies. That inquiry at some future period I hope to make, and thus complete the scheme of government I have devised. But our North American provinces must be dealt with at once, if we wish to retain our dominion over them. I therefore now, and without further delay, propose the only plan by which I believe they can be preserved to England.

APPENDIX.

A.

AN ACT TO ESTABLISH THE TERRITORIAL GOVERNMENT OF OREGON.

B.

A BILL FOR THE ADMISSION OF THE STATE OF WISCONSIN INTO THE UNION.

C.

A GRADUATED TABLE, SHOWING THE COMPARATIVE AMOUNT OF MONEY APPROPRIATED BY THE DIFFERENT COUNTIES IN THE STATE, FOR THE EDUCATION OF EACH CHILD, BETWEEN THE AGES OF FOUR AND SIXTEEN YEARS, IN EACH COUNTY OF THE STATE OF MASSACHUSETTS.

A.

AN ACT TO ESTABLISH THE TERRITORIAL GOVERNMENT OF OREGON.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That from and after the passage of this act, all that part of the territory of the United States which lies west of the summit of the Rocky Mountains, north of the forty-second degree of north latitude, known as the Territory of Oregon, shall be organized into and constitute a temporary government by the name of the Territory of Oregon: *Provided,* That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to affect the authority of the government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never passed. *And provided also,* That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong: *And provided further,* That nothing in this act contained, shall be construed to inhibit the Government of the United States from dividing said territory into two or more territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Oregon shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of Superintendent of Indian Affairs; he may grant pardons and respites for offences against the laws of said territory, and reprieves for offences against the laws of the United States until the decision of the president can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said territory, where, by law, such commissions shall be required, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the Legislative Assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the Legislative Assembly within thirty days after the end of each session, and one copy of the executive proceedings, and official correspondence, semi-annually, on the first days of January and July, in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, for the use of Congress. And in case of the death, removal, resignation, or absence of the Governor from the territory, the Secretary shall be, and he is hereby authorized and required to execute and perform all the powers and duties of the Governor during such vacancy or absence, or until another Governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power

and authority of said territory shall be vested in a Legislative Assembly. The Legislative Assembly shall consist of a Council and House of Representatives. The Council shall consist of nine members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue three years. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the members of Council of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year; so that one-third may be chosen every year; and if vacancies happen by resignation or otherwise, the same shall be filled at the next ensuing election. The House of Representatives shall, at its first session, consist of eighteen members, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. The number of representatives may be increased by the Legislative Assembly from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty. An apportionment shall be made as nearly equal as practicable, among the several counties or districts, for the election of the Council and Representatives, giving to each section of the territory representation in the ratio of its qualified voters, as nearly as may be. And the members of the Council and of the House of Representatives shall reside in and be inhabitants of the district, or county, or counties, for which they may be elected respectively. Previous to the first election, the Governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons, and in such mode, as the Governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor; and the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election, and the returns

thereof, as the Governor shall appoint and direct; and he shall at the same time declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act; and the governor shall, by his proclamation, give at least sixty days previous notice of such apportionment, and of the time, places, and manner of holding such election. The persons having the highest number of legal votes in each of said council districts for members of the Council, shall be declared by the Governor to be duly elected to the Council; and the persons having the highest number of legal votes for the House of Representatives shall be declared by the Governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the Legislative Assembly, the Governor shall order a new election, and the persons thus elected to the Legislative Assembly shall meet at such place, and on such day, within ninety days after such elections, as the Governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the Legislative Assembly: *Provided*, That no session in any one year shall exceed the term of sixty days, except the first session, which shall not be prolonged beyond one hundred days.

SEC. 5. *And be it further enacted*, That every white male inhabitant above the age of twenty-one years, who shall have been a resident of said territory at the time of the passage of this act, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office at all subsequent elections, shall be such as shall be prescribed by the

Legislative Assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and those above that age who shall have declared on oath their intention to became such, and shall have taken an oath to support the Constitution of the United States, and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote in said territory, by reason of being on service therein, unless said territory is and has been, for the period of six months, his permanent domicile: *Provided further*, That no person belonging to the army or navy of the United States shall ever be elected to, or hold any civil office or appointment in said territory.

SEC. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation, not inconsistent with the Constitution and laws of the United States; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the Legislative Assembly shall be submitted to the Congress of the United States, and if disapproved, shall be null and of no effect: *Provided*, That nothing in this act shall be construed to give power to incorporate a bank, or any institution with banking powers, or to borrow money in the name of the territory, or to pledge the faith of the people of the same for any loan whatever, either directly or indirectly. No charter granting any privilege of making, issuing, or putting into circulation any notes or bills in the likeness of bank-notes, or any bonds, scrip, drafts, bills of exchange, or obligations, or granting any other banking powers or privileges, shall be passed by the Legislative Assembly; nor shall the establishment of any branch or agency of any such corporation, de-

rived from other authority, be allowed in said territory; nor shall said Legislative Assembly authorize the issue of any obligation, scrip, or evidence of debt by said territory, in any mode or manner whatever, except certificates for services to said territory; and all such laws, or any law or laws, inconsistent with the provisions of this act, shall be utterly null and void; and all taxes shall be equal and uniform, and no distinction shall be made in the assessments between different kinds of property, but the assessments shall be according to the value thereof. To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected in such manner as shall be provided by the Legislative Assembly of the Territory of Oregon.

SEC. 8. *And be it further enacted*, That no member of the Legislative Assembly shall hold, or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first Legislative Assembly; and no person holding a commission or appointment under the United States, shall be a member of the Legislative Assembly, or shall hold any office under the Government of said territory.

SEC. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually, and they shall hold their offices during the period of four years, and until their successors shall be

appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts, by one of the justices of the supreme court, in such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of justices of the peace, shall be as limited by law; *Provided*, That justices of the peace shall not have jurisdiction of any case in which the title to land shall in any wise come in question, or where the debt or damages claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery, as well as common law, jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the registrar in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error, and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed two thousand dollars; and in all cases where the Constitution of the United States, or act of Congress, or a treaty of the United States is brought in question, each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States and the laws of said territory, as

is vested in the circuit and district courts of the United States. Writs of error and appeal in all such cases shall be made to the supreme court of said territory, the same as in other cases. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner as from the circuit courts of the United States, where the value of the property or the amount in controversy shall exceed two thousand dollars; and each of said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States, and also of all cases arising under the laws of the said territory and otherwise. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of the late Wisconsin Territory received for similar services.

SEC. 10. *And be it further enacted,* That there shall be appointed an attorney for said territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as were provided by law for the attorney of the United States for the late territory of Wisconsin. There shall also be a marshal for the territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts, when exercising their jurisdiction as circuit and district courts of the United States: he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as were provided by law for the marshal of the district court of the United States for the present territory of Wisconsin; and shall, in addition, be paid two hundred dollars annually, as a compensation for extra services.

SEC. 11. *And be it further enacted,* That the governor, secretary, chief justice and associate justices, attorney, and marshal, shall be nominated, and by and with the advice

and consent of the senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively, take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the Supreme Court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted, by the person taking the same, to the secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and fifteen hundred dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of two thousand dollars. The secretary shall receive an annual salary of fifteen hundred dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the Legislative Assembly shall be entitled to receive three dollars each per day, during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. And

a chief clerk, one assistant clerk, a sergeant-at-arms, and doorkeeper, may be chosen for each house; and the chief clerk shall receive five dollars per day, and the said other officers three dollars per day, during the session of the Legislative Assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the Legislature annually, unless, on an extraordinary occasion, the governor shall think proper to call the Legislature together. There shall be appropriated, annually, the sum of fifteen hundred dollars, to be expended by the governor, to defray the contingent expenses of the territory, including the salary of a clerk of the executive department; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid [sum] moneys shall have been expended; and no expenditure, to be paid out of money appropriated by Congress, shall be made by said Legislative Assembly for objects not specially authorized by the acts of Congress making the appropriation, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted*, That the rivers and streams of water in said territory of Oregon, in which salmon are found, or to which they resort, shall not be obstructed by dams or otherwise, unless such dams or obstructions are so constructed as to allow salmon to pass freely up and down such rivers and streams.

SEC. 13. *And be it further enacted*, That the sum of ten thousand dollars be, and is hereby, appropriated to be expended under the direction of the President of the United States, in payment for the services and expenses of such

persons as have been engaged by the provisional government of Oregon, in conveying communications to and from the United States, and for purchase of presents for such of the Indian tribes as the peace and quiet of the country requires.

SEC. 14. *And be it further enacted*, That the inhabitants of said territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States north-west of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen hundred and eighty-seven; and shall be subject to all the conditions, and restrictions, and prohibitions in said articles of compact imposed upon the people of said territory; and the existing laws now in force in the territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein, so far as the same be not incompatible with the constitution of the United States and the principles and provisions of this act; subject, nevertheless, to be altered, modified, or repealed by the Legislative Assembly of the said territory of Oregon; but all laws heretofore passed in said territory making grants of land or otherwise affecting or encumbering the title to lands, shall be, and are hereby, declared null and void, and the laws of the United States are hereby extended over, and declared to be in force in, said territory, so far as the same, or any provision thereof, may be applicable.

SEC. 15. *And be it further enacted*, That the Legislative Assembly of the Territory of Oregon shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the Legislative Assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by said Legislative Assembly. And the sum of five thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby appro-

priated and granted to said territory of Oregon, to be there applied, by the governor, to the erection of suitable buildings at the seat of government.

SEC. 16. *And be it further enacted,* That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as have been heretofore exercised and enjoyed by the delegates from the several other territories of the United States to the said House of Representatives; but the delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct, of which, and the time, place, and manner of holding such elections, he shall give at least sixty days' notice by proclamation; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. The delegate from said territory shall not be entitled to receive more than twenty-five hundred dollars at any one session of Congress, as a compensation for his mileage in going to and returning from the seat of the government of the United States, any act of Congress to the contrary notwithstanding.

SEC. 17. *And be it further enacted,* That all suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts established by authority of the provisional government of Oregon, within the limits of said territory, when this act shall take effect, shall be transferred to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the counties or districts where any such proceedings may be pending. All bonds, recognizances, and obligations of every

kind whatsoever, valid under the existing laws within the limits of said territory, shall be valid under this act; and all crimes and misdemeanors against the laws in force within said limits may be prosecuted, tried, and punished in the courts established by this act; and all penalties, forfeitures, actions, and causes of action, may be recovered under this act, in like manner as they would have been under the laws in force within the limits composing said territory at the time this act shall go into operation: *Provided*, That the laws, penalties, and forfeitures, and punishments by this section required to be enforced by the courts provided for by this act, shall not be inconsistent with the constitution of the United States: *And provided further*, That no right of action whatever shall accrue against any person for any act done in pursuance of any law heretofore passed by the temporary government, and which may be declared contrary to the constitution of the United States.

SEC. 18. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers who shall be in office within the limits of said territory when this act shall take effect, shall be, and they are hereby authorized and required to continue to exercise and perform the duties of their respective offices, as officers of the territory of Oregon, until they, or others, shall be duly elected or appointed and qualified to fill their places, in the manner herein directed, or until their offices shall be abolished.

SEC. 19. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, to be expended, by and under the direction of the said governor of the territory of Oregon, in the purchase of a library, to be kept at the seat of government, for the use of the governor, Legislative Assembly, judges of the Supreme Court, secretary, marshal, and attorney of said territory, and such other persons, and under such regulations, as shall be prescribed by law.

SEC. 20. *And be it further enacted*, That when the lands in

said territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six, in each township in said territory, shall be, and the same are hereby, reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

SEC. 21. *And be it further enacted*, That, until otherwise provided for by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation, to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 22. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the territory of Oregon, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and place, and in such manner, as the secretary of the treasury may prescribe.

SEC. 23. *And be it further enacted*, That all the ports, harbours, shores, and waters of the main land of the territory aforesaid, shall constitute a collection district, to be called the district of Oregon; and a port of entry shall be established at Astoria, near the mouth of the Columbia river, and a collector of customs shall be appointed by the President, by and with the advice and consent of the Senate, to reside at such port of entry.

SEC. 24. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to esta-

blish such ports of delivery in the district created by this act, not exceeding two in number, one of which shall be located on Puget's Sound, as he may deem expedient, and may appoint, by and with the advice and consent of the Senate, surveyors to reside thereat.

SEC. 25. *And be it further enacted,* That the collector of said district shall be allowed a compensation of one thousand dollars per annum, and the fees allowed by law; and the compensation of any surveyor appointed in pursuance of this act shall not exceed five hundred dollars per annum, including in said sum the fees allowed by law; and the amount collected by any of said surveyors, for fees, in any one year, exceeding the sum of five hundred dollars, shall be accounted for and paid into the treasury of the United States.

SEC. 26. *And be it further enacted,* That the revenue laws of the United States be, and are hereby, extended over the territory of Oregon.

SEC. 27. *And be it further enacted,* That the sum of fifteen thousand dollars be, and the same is hereby, appropriated, out of any moneys in the treasury not otherwise appropriated, to be expended under the direction of the secretary of the treasury, for the construction of light-houses at Cape Disappointment and New Dunginess; and for the construction and anchoring of the requisite number of buoys, to indicate the channels at the mouth of the Columbia river, and the approaches to the harbour of Astoria, the said buoys to be placed and anchored under the direction of such person as the secretary of the treasury shall appoint.

B.

A BILL FOR THE ADMISSION OF THE STATE OF WISCONSIN INTO THE UNION.

WHEREAS the people of the Territory of Wisconsin did, on the first day of February, eighteen hundred and forty-eight, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State government, which said constitution is republican, and said convention having asked the admission of said Territory into the Union as a State, upon an equal footing with the original States:

Be it enacted, &c., That the State of Wisconsin be, and is hereby, admitted to be one of the United States of America, and is hereby admitted into the Union on an equal footing with the original States, in all respects whatever, with the boundaries prescribed by the act of Congress approved August 6, 1846, entitled "An act to enable the people of Wisconsin Territory to form a constitution and State government, and for the admission of such State into the Union."

SEC. 2. *And be it further enacted*, That the assent of Congress is hereby given to the *first*, *second*, *fourth*, and *fifth* resolutions adopted by said convention, and appended to said constitution, and the acts of Congress referred to in the said resolutions are hereby amended, so that the lands granted by the provisions of the several acts referred to in the said *first* and *fourth* resolutions, and the proceeds of said lands and the five per centum of the net proceeds of the public lands therein mentioned, shall be held and disposed of by said State in the manner and for the purposes recommended by said convention; and so that, also, the lands reserved to the United States by the provisions of the act entitled "An act to grant a quantity of land to aid in the improvement of the Fox and Wisconsin rivers, and to connect the same by a canal in the Territory of Wisconsin;" and also the even-numbered sections reserved by the pro-

visions of the act entitled "An act to grant a quantity of land to the Territory of Wisconsin, for the purpose of aiding in opening a canal to connect the waters of Lake Michigan with those of Rock River," shall be offered for sale at the same mininum price, and subject to the same rights of preëmption, as other public lands of the United States: *Provided, however*, That no person shall be entitled to a preëmption by reason of the settlement and cultivation of any quarter section or other subdivision of said even-numbered sections, which tract, before the commencement of such settlement, shall have been claimed by any other person cultivating and improving the same in good faith, and which shall have continued to be claimed, cultivated, and improved in like good faith by such person, his representatives, or assigns, until the sale of said tract, and of which said prior claim, cultivation, and improvement, the person so claiming preëmption shall have had notice at the time of his entry and settlement. Neither shall any preëmption be allowed to any tract to the injury of any person, or of the representatives or assigns of any person claiming and occupying the same, or any part thereof, in good faith, in his or her right at the passage of this act, and owning valuable cultivation or improvements thereon, which cultivation or improvements shall have been assigned by the person so claiming preëmption; or, if commenced subsequently to the entry and settlement of such person, shall have been made with his consent or acquiescence.

SEC. 3. *And be it further enacted*, That the purchase of any tract of the said even numbered sections mentioned in the preceding section, and sold since the reservation thereof, at the minimum price of two dollars and fifty cents per acre, shall be entitled to receive from the Commissioner of the General Land Office a certificate of the quantity of land so purchased, and of the amount of the excess paid therefor over and above the value of said land, at the rate of one dollar and twenty-five cents per acre; which certificate, to the amount of such excess, shall be receivable from the holder thereof, or his assigns, in like manner as so much money, in payment of the public lands of the United States.

That, in the event of the death of any such purchaser before the issuing of such certificate, the same shall be issued in favour of the lawful representatives of such purchaser.

SEC. 4. *And be it further enacted*, That the judge of the district court for the district of Wisconsin, shall hold a term of said court in each year at the seat of government, to commence on the first Monday of July, and another term of said court in each year at Milwaukie, to commence on the first Monday of January. He shall also have power to hold special terms for the trial of causes, and for the determination of all suits or proceedings in said courts, at either of the aforesaid places, at his discretion, as the nature and the amount of the business may require. The said court shall be open at all times for the purpose of hearing and deciding cases of admiralty and maritime jurisdiction, so far as the same can be done without a jury. The records and papers of said court may be kept at either of the places therein designated for the holding of said court, as the judge in his discretion shall direct.

SEC. 5. *And be it further enacted*, That the clerks of the district courts of the Territory of Wisconsin shall, before their term of office expires, certify, under seal, and transmit to the clerk of said court, all records of all unsatisfied judgments and of suits pending in said courts respectively, attaching thereto all papers connected therewith, in all cases arising under the laws or Constitution of the United States, or to which the United States shall be a party; and they shall forward the same to the clerk of said district court of the State of Wisconsin, who shall enter the same in his docket, and the said district court shall proceed therein to final judgment and execution, as if such suits or proceedings had originally been brought in said court.

SEC. 6. *And be it further enacted*, That the clerk of the supreme court of the Territory of Wisconsin shall deliver over to the clerk of said district court, all records and papers in the office of the clerk of the said supreme court relating to proceedings in bankruptcy under the late bankrupt law of the United States. He shall also certify under seal, and

deliver to said clerk, all records of judgments and of proceedings in suits pending, and all papers connected therewith, in cases arising under the Constitution and laws of the United States.

SEC. 7. *And be it further enacted*, That from and after the fourth day of March, eighteen hundred and forty-nine, and until another census and appointment shall be made, the State of Wisconsin shall be entitled to three Representatives in the Congress of the United States.

C.

A Graduated Table, showing the Comparative Amount of money appropriated by the different Counties in the State, for the Education of each child, between the ages of 4 and 16 years, in each County of the State of Massachusetts.

For 1846-47.	For 1847-48.	Counties.	Sum appropriated by counties for ea. child between 4 & 16 years of age.	Amount raised by taxes for the support of Schools.	Income of the Surplus Revenue appropriated to Schools.	Total.	No. of children between 4 and 16 years of age.	Amount contributed for board and fuel.
1	1	Suffolk . .	$7 98	$215,760 91	...	...	27,041	
2	2	Nantucket .	5 44	9,775 37	...	...	1,797	
3	3	Middlesex .	3 98	127,203 13	$373 64	$127,676 77	32,077	$139 58
4	4	Norfolk . .	3 89	59,204 37	695 72	59,900 09	15,417	5 00
7	5	Essex . .	2 80	80,135 50	553 20	80,688 70	28,833	40 00
5	6	Bristol . .	2 76	51,149 85	259 52	51,409 41	18,644	2,993 82
6	7	Plymouth .	2 76	36,384 59	521 20	36,905 79	13,391	2,322 10
9	8	Worcester .	2 59	72,424 20	374 49	72,798 69	28,101	821 12
10	9	Hampshire .	2 45	19,470 00	641 98	20,111 98	8,206	4,816 25
8	10	Hampden .	2 42	25,399 00	273 94	25,672 94	10,596	6,029 49
11	11	Duke's Co..	2 25	2,575 00	...	...	1,144	
13	12	Franklin .	2 12	16,473 53	224 00	16,697 53	7,893	5,342 27
12	13	Barnstable .	2 00	18,108 00	730 78	18,838 78	9,416	2,539 72
14	14	Berkshire .	1 79	20,879 96	220 41	21,100 37	11,790	10,845 28

AGGREGATE OF THE STATE.

14 Counties . . .	3 54	754,943 45	4,868 88	759,812 33	214,436	35,894 60

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